TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 333.

JOSIAS N. ROGERS, ASSIGNEE OF ANDREW PALMER, JR., A BANKRUPT, APPELLANT,

vs.

ANDREW PALMER, SR.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

FILED OCTOBER 27, 1877.

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1 To the honorable the judges of the United States circuit court for the district of Minnesota:

Josias N. Rogers, of Saint Paul, in the county of Ramsey, and State of Minnesota, brings this his bill against Andrew Palmer, sr., a resident and citizen of Janesville, in the State of Wisconsin.

And thereupon your orator complains and shows to your honor that heretofore, to wit, on the 30th day of November, 1875, one Andrew Palmer, jr., upon the petition of his creditors, duly filed on the 22d day of November, 1875, in the United States district court in and for the district of Minnesota, was duly declared and adjudged a bankrupt by said United States district court, under the provisions of the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, and the acts amendatory thereof; and thereafter, in such proceedings and before the time of exhibiting this bill, your orator was by order of said United States district court duly appointed assignee in bankruptcy of the estate of the said Andrew Palmer, jr., accepted such trust, duly qualified therein, and entered upon the discharge of his duties therein, and still remains such assignee, and exhibits this his bill in that capacity.

That thereafter and on the 27th day of December, 1875, the proper register of said United States dist. court in bankruptcy, there being no opposing interest, did by an instrument in writing under his hand and the seal of said court duly assign and convey to your
2 orator all the property of the said Andrew Palmer, jr., both personal and real, which he owned or in which he had any interest on said November 22, 1875.

That on the 23d day of October, 1875, and for more than six months prior thereto, the said Andrew Palmer, jr., was a merchant and trader, and doing a retail business as such in the village of Albert Lea, in the county of Freeborn, and State and district of Minnesota.

That on said October 23d, 1875, a suit was instituted in the district court in and for the said county of Freeborn, and tenth judicial district, and State of Minnesota, in favor of the said Andrew Palmer, sr., and who was then and there the father of said Andrew Palmer, jr., and against the said Andrew Palmer, jr., by the service of summons therein. That in said suit judgment was rendered in favor of said Andrew Palmer, sr., and against said Andrew Palmer, jr., by default, the said Andrew Palmer, jr., having interposed no defence to said action, on the 13th day of November, 1875, for the sum and amount of $8,483\frac{00}{100}$.

That immediately thereafter and on said November 13th, 1875, an execution was issued on said judgment addressed and directed to the sheriff of said Freeborn County and delivered to him for service, and was by him immediately levied upon nearly the entire property and assets of the said Andrew Palmer, jr., and upon property and assets well worth the sum and amount of eight thousand dollars, and taken in the possession and control of said sheriff thereunder, and said sheriff was proceeding to sell and dispose of the same.

That thereafter, to wit, on the 5th day of January, 1876, your
3 orator, as such assignee, and Andrew Palmer, sr., said defendant, by his attorneys, Davis, O'Brien, and Wilson, entered into and made an agreement, of which a true copy is hereto attached, marked A, and made a part hereof. That in accordance with such stipulation such property has been surrendered to your orator, and he is now disposing of the same thereunder and in accordance therewith.

That said action was instituted to recover the amount claimed to be due on three certain promissory notes executed in the year 1867 by the said Andrew Palmer, jr., to the order of the said Andrew Palmer, sr., his father as aforesaid, and upon which no demand for payment had ever been made by the said Andrew Palmer, sr., upon the said Andrew Palmer, jr., since the execution and delivery thereof as aforesaid until the commencement of said action in the district court of Freeborn County as aforesaid.

That no payments had ever been made upon the principal sum of said notes, although the same had been due and payable at the time of the commencement of said suit as aforesaid for more than eight years.

That at the time of the institution of said suit as aforesaid, and for more than one year prior thereto, said notes were in large part secured by mortgage on real property situated in said county of Freeborn, and owned and possessed in part by the said Andrew Palmer, jr., and in part by the wife of said Andrew Palmer, jr., and the value of which said mortgage security and of the real estate covered by such indenture was the full sum of $5,500, of which property $3,500 worth was owned and possessed by the wife of the said Andrew Palmer, jr., and
4 $2,000 worth by the said Andrew Palmer, jr. And no proceedings were ever taken to foreclose said mortgage or to realize the said claim therefrom; but that the said security, in furtherance of the unlawful and fraudulent preference hereinafter set forth was wholly abandoned, to the end that the whole of the said claim might be made from the assets of the said Andrew Palmer, jr., and the said real estate of his said wife be wholly relieved from the lien of said mortgage and the operation thereof.

That the attorneys of the said Andrew Palmer, sr., in said suit were a certain co-partnership firm doing business at said Albert Lea under the name and style of Lovely and Parker, and who were at the time of the commencement of said action and the taking and rendition of said judgment and the issuance and levy of said execution also the attorneys of the said Andrew Palmer, jr., and who had been such attorneys of Andrew Palmer, jr., for a long time prior thereto, and the only attorneys of the said Andrew Palmer, jr.

That on the 11th and 12th days of November, 1875, and just prior to the rendition of said judgment and the issuance and levy of said execution as aforesaid, several of the other creditors of the said Andrew Palmer, jr., were present at said Albert Lea, some of them in person and some by their duly authorized agents; and said creditors so knowing of the commencement of the said suit as aforesaid by the said Andrew Palmer, sr., against the said Andrew Palmer, jr., counselled, advised, and entreated the said Andrew Palmer, jr., to interpose an answer to the complaint of said Andrew Palmer, sr., or to make a general
5 assignment for the benefit of creditors without *without* preference, or to take some measures legal and proper to make a fair and equitable distribution of his assets among his creditors, and prevent one creditor, to wit, said Andrew Palmer, sr., from obtaining a preference over the other creditors of him, the said Andrew Palmer, jr. But that said Andrew Palmer, jr., conniving and colluding with the said Andrew Palmer, sr., and for the purpose of giving him, the said Andrew Palmer, sr., an unlawful and fraudulent preference over his other creditors, steadily and persistently, unlawfully, and wrongfully, refused so to do; but, instead thereof, aided, counselled, and assisted by all acts in his power the said Andrew Palmer, sr., and his said attorneys, and who were then and there his attorneys, in procuring the entry and dock-

eting of said judgment, the issuing of said execution, and the levy thereof as aforesaid.

Your orator further states unto your honor that the debts due from said bankrupt, which have been proved in said proceedings in bankruptcy, exceed in the aggregate the sum of eight thousand dollars, while the assets of said estate do not exceed in value the sum of two thousand dollars aside from the property and assets so levied on as aforesaid, and unless the relief herein prayed is given your orator, the general creditors of the said Andrew Palmer, jr., will suffer great loss and be almost entirely remediless in the premises.

That the said property was, when so levied on as aforesaid by the sheriff of said Freeborn County, the property and assets of the said Andrew Palmer, jr., and has ever been such property and assets;
6 that the same of right vested in your orator by virtue of the bankruptcy proceedings hereinbefore mentioned.

Your orator further charges the fact to be that, at the time of the commencement of said action as aforesaid, and long prior thereto, and long prior to the entry and docketing of said judgment and the levy of said execution as aforesaid, the said Andrew Palmer, jr., was insolvent, and that being so insolvent he did, on said November 13th, 1875, the time when the said judgment was so docketed and execution issued and levy made thereunder as aforesaid, with a view to give a preference to said Andrew Palmer, sr., procure his said property to be seized on said execution as aforesaid; and that the said Andrew Palmer, sr., then and there, and before that time, and long before the commencement of said proceedings as aforesaid, had reasonable cause to believe and know, and then and there did know that the said Andrew Palmer, jr., was insolvent as aforesaid, and well knew that the entry and docketing of said judgment as aforesaid, and the issuance and levy of said execution as aforesaid, was made and done and was intended to be so made and done by all parties thereto, and particularly by said Andrew Palmer, jr., to prevent his said property from coming to his said assignee in bankruptcy, and to prevent the same from being distributed under said act; and to impair, hinder, impede, and delay the operation and effect of said act, and to give a preference to the said Andrew Palmer, sr., over the other creditors of him, the said Andrew Palmer, jr., and was done and procured to be done in fraud of said bankrupt act as aforesaid.

That said bankruptcy proceedings are still pending for the pur-
7 pose of settling the estate of the said Andrew Palmer, jr. That previous to the exhibition of this bill, your orator duly demanded of the said defendant the possession of the said property, which the said defendant then and there refused to deliver to your orator.

Your orator further charges the fact to be that the aforesaid acts complained of were done, committed, suffered, and procured by and between the said Andrew Palmer, jr., and the said Andrew Palmer, sr., corruptly and fraudulently, and that particularly they were done and procured to be done in fraud of the aforesaid act of Congress, and with intent to give an unlawful preference to the said Andrew Palmer, sr.

That without the aid of this court in equity your orator is entirely without remedy by reason of the wrongful and fraudulent acts complained of; and that your orator exhibits this his bill in aid of such bankruptcy proceedings, and your orator well hoped that no dispute would have arisen touching the matter hereinbefore complained of, but that the defendant would comply with the reasonable request of your orator as he ought in good conscience and equity to have done. All which

acts and doings are contrary to equity and good conscience, and tend to the manifold wrong, injury, and oppression of your orator.

To the end, therefore, that the said defendant may, if he can, show why your orator should not have the relief hereby prayed, your orator craves that he, the said defendant, may make full and complete answer to this your orator's bill of complaint, his answer on oath being hereby waived, and that the defendant may come to a full and fair ac-
8 count of and concerning the value, quantity, and nature of the said property, and that he may be decreed to deliver all and singular the said property to your orator, and that the said judgment in favor of said defendant may, as well as the said writ of execution and levy thereof, be each and all adjudged illegal, fraudulent, and void; and said defendant be adjudged to have no lien upon any of said property or upon the proceeds thereof; and that your orator may have such further and other relief in the premises as the nature of the case may require and as may be agreeable to equity.

May it please your honor to grant unto your orator the most gracious writ of subpœna of the United States of America, to be directed to the said defendant, thereby commanding him, at a certain day and under a certain pain therein to be specified, personally to appear before your honors in this honorable court, and then and there to answer all and singular the premises, and to stand to, perform, and abide such order and decree therein as to your honor shall seem meet; and your orator shall ever pray.

JOSIAS N. ROGERS,
Complainant.

ROGERS and ROGERS, and
STACY and DYER,
Solicitors and Counsel for Complainant.

9 United States district court, district of Minnesota. In bankruptcy.

In the matter of Andrew Palmer, jr., bankrupt.

Whereas, on the 13th day of November, 1875, in the district court in and for the county of Freeborn, and State of Minnesota, a judgment was rendered and docketed in an action theretofore commenced in said court, in which action one Andrew Palmer, sr., was plaintiff, and the said Andrew Palmer, jr., was defendant, for the sum of $8,483.00, damages and costs, in favor of said plaintiff and against said defendant, and an execution on said day was issued on said judgment and placed in the hands of one T. J. Sheehan, sheriff of said Freeborn County, for service, and was by said sheriff levied upon the property, goods, wares and merchandise and other personal property of the said Andrew Palmer, jr., and which more fully appears from the return of said sheriff thereon, and an inventory thereof made and served on the defendant in said cause;

And whereas said Andrew Palmer, jr., was on the 30th day of November, 1875, in said district court of the United States, duly adjudged a bankrupt;

And whereas an injunction was issued out of said last mentioned court, directed to said Andrew Palmer, sr., and T. J. Sheehan, sheriff as aforesaid, and other parties, enjoining and restraining them, their agents, servants and attorneys, from selling or disposing of any of said property, and which said process was duly served on said sheriff,

and which said injunction continues to be and is now of full force and effect;

And whereas Josias N. Rogers, of the city of St. Paul, county of Ramsey, and State of Minnesota, has been duly appointed assignee in bankruptcy of said Andrew Palmer, jr., and has duly qualified and entered upon his duties as such assignee, and is desirous of bringing an action to test and determine the validity of said judgment, execution and levy thereunder and upon said property so levied on as aforesaid, and the right of said judgment creditor to satisfy his said judgment out of said property so levied on, and which said property is of great value, to wit, of the value of more than $5,000.00:

Now, therefore, it is hereby stipulated and agreed by and between the said Andrew Palmer, sr., by his attorneys, Messrs. Davis, O'Brien and Wilson, of Saint Paul, Minnesota, and the said Josias N. Rogers, assignee as aforesaid, by his attorneys, Messrs. Rogers and Rogers, of Saint Paul, Minnesota, that all of said personal property so levied on as aforesaid may be by the said T. J. Sheehan delivered to the said assignee, to be by him sold to the best advantage, and subject to the levy made by him as such sheriff under said execution as aforesaid, and the proceeds thereof, less his, said assignee's, fees and expenses, to be taxed by the judge of the district court of the United States for said district, and also less such sum as shall be sufficient to satisfy the full amount of the execution heretofore levied by said sheriff upon said property in favor of Farrington and Schmall and against the said Andrew Palmer, jr., the full amount of which said execution and costs it is agreed by both of the parties hereto shall be paid and satisfied by said as-

11 signee out of the proceeds of the sale hereinbefore provided for, and also less the costs and fees of said T. J. Sheehan upon the execution in favor of said Andrew Palmer, sr., to be taxed before Hon. S. Page, judge of the district court of Freeborn County, which is also to be paid by said assignee out of the proceeds of said sale, the remainder of said proceeds to be by said assignee paid to the clerk of the district court of the United States, to be by him retained until a final disposition of the same shall be made.

It is further stipulated that the writ of injunction against said sheriff and others be vacated and dissolved for the purpose of and to the extent necessary to fully carry out and perform the conditions of this stipulation.

And it is further stipulated that the proceeds of the said sale, when so paid to said court by said assignee, shall be considered and treated as being as fully subject to the lien of the execution of Andrew Palmer, sr., as though the same were still in the hands of said sheriff under said execution, it being the intention of this stipulation to prevent unnecessary costs and expenses, and to preserve the proceeds of said goods in the most economical manner until the conflicting claims of the said Andrew Palmer, sr., as such judgment creditor, and the said assignee therein and thereto are fully settled and determined, and to that intent and purpose all and singular the rights and claims of what kind and nature soever of the said Andrew Palmer, sr., as such judgment creditor, are fully and in all things reserved to him, and in like man-

12 ner all and singular the rights or claims of what kind or nature soever of such assignee in or to such proceeds are fully and in all things reserved to him, unless by each of said parties otherwise provided in this stipulation.

It is further stipulated that should said assignee desire, as such assignee, to commence any action in the premises for the recovery of or

touching the proceeds of said sale, whether of the nature hereinbefore referred to or otherwise, that the same shall be commenced within 90 days from the date of this stipulation, and that the amount to be recovered in such action by said assignee or any of the parties to this stipulation, either as plaintiff or defendant, shall not exceed the sum so to be deposited by such assignee as the proceeds of said sale.

It is further stipulated and agreed that should such action not be commenced by said assignee within the period of 90 days hereinbefore limited, that then and in that case such failure shall be deemed and construed as a waiver of all and singular the claims or rights of said assignee in or to the proceeds of said sale and a concurrence and acknowledgment by him of the rights of said Andrew Palmer, sr., thereto as such judgment creditor, provided that service of all process in such action may be served upon Davis, O'Brien and Wilson, att'ys of said Andrew Palmer, sr., with the like effect as if served on him, and thereupon the said Andrew Palmer, sr., may have and take the proper order of the United States district court aforesaid, or of the judge thereof, directing and requiring the clerk of said court to pay to him as such judgment creditor the full amount of the proceeds of such sale, or so
13 much thereof as may be necessary to satisfy the execution therein levied by him as such judgment creditor as aforesaid.

It is further stipulated and agreed that should said assignee elect within the period aforesaid to commence said action, both parties shall have the right at all proper times to appeal the same to a court of last resort.

Dated St. Paul, Jan'y 5, 1876.

ROGERS AND ROGERS,
Att'ys for Assignee.
DAVIS, O'BRIEN AND WILSON,
Att'ys for A. Palmer, sr.

On reading the foregoing stipulation and on due consideration of the matter involved, it is ordered that the injunction heretofore issued against the sheriff therein named be modified so as to allow said property so mentioned in said stipulation and so affected by the legal proceedings of said Andrew Palmer, sr., against said Andrew Palmer, jr., as stated in said stipulations to go into the possession of said assignee under said stipulation, and that said stipulation shall be filed in the clerk's office of said United States district court, and become operative and binding on all the parties therein named from the date of the making thereof, according to its terms and tenor.

Dated St. Paul, 1876.

R. R. NELSON,
Judge of U. S Dist. Court.

14 (Indorsed:) U. S. circuit court, dist. of Minnesota. Josias N. Rogers, assignee, &c., vs. Andrew Palmer, sr. Bill of complaint. Filed February 29, 1876. H. E. Mann, clerk. Rogers and Rogers, sol's and counsel for comp't.

15 And thereupon, upon application of said solicitors, a writ of subp'ena was duly issued out of said court under the seal thereof duly tested, and in the words and figures following, to wit:

UNITED STATES OF AMERICA,
District of Minnesota, ss:

The President of the United States of America, to Andrew Palmer, sr., greeting:

You are hereby commanded to appear before our judges of our circuit court of the United States of America, for the district of Minnesota, at Saint Paul, in said district, on the first Monday in the month of April next, to answer the bill of complaint of Josias N. Rogers this day filed in the clerk's office of said court, in said Saint Paul, there and then to receive and abide by such judgment and decree as shall then or thereafter be made, upon pain of judgment being pronounced against you by default.

To the marshal of the district of Minnesota, to execute.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, at Saint Paul aforesaid, this twenty-ninth day of February, in the year of our Lord one thou-
16 sand eight hundred and seventy-six, and of our Independence the one hundredth year.

[SEAL OF U. S. C. C.] H. E. MANN, *Clerk.*

MEMORANDUM.—The within-named defendant is notified that unless he enter appearance in the clerk's office of said court at Saint Paul aforesaid, on or before the day to which this writ is returnable, the complaint will be taken against him as confessed and decree entered accordingly.

H. E. MANN, *Clerk.*

ROGERS & ROGERS,
Plaintiff's Solicitors.

Which said subp'ena was afterwards duly returned to our said clerk's office indorsed by the marshal of the United States for the district of Minnesota as follows, viz:

UNITED STATES OF AMERICA,
District of Minnesota, ss:

I hereby certify that I served the annexed subp'ena in chancery on the therein-named defendant, Andrew Palmer, sr., by handing to and leaving with C. K. Davis, esq., one of the firm of Davis, O'Brien
17, 18 & Wilson, att'ys for said defendant, personally, a true copy thereof at St. Paul, in said district, on the twenty-ninth day of February, 1876.

R. N. McLAREN,
U. S. Marshal.

Fees, $2.12.

19 United States circuit court, district of Minnesota. In equity.

JOSIAS N. ROGERS, COMPLAINANT,
vs.
ANDREW PALMER, SR., DEFENDANT.

The answer of Andrew Palmer, sr., defendant, to the bill of complaint.

This defendant, now and at all times hereinafter saving and reserving unto himself all manner of benefit or advantage of exception to the many

errors and insufficiencies in the complainant's said bill of complaint contained, for answer thereto or unto so much or such parts thereof as the defendant is advised is material for him to make answer unto, avers and says:

He admits all and singular the averments in the said bill of complaint contained down to and including the figures "$8,483," when they first occur in the said bill of complaint, and that an execution was issued on the judgment mentioned in the said bill directed, as therein stated, on the 13th day of November, A. D. 1875; but he says he knows not, and has not been informed, save by the complainant's bill, and cannot set forth as to his belief, or otherwise, whether the same was levied upon nearly or upon what part of the entire assets of the bankrupt, or upon what property the same was levied, save as hereinafter stated.

20 He avers that the property so levied upon was worth the sum of $4,390 dollars and no more.

He admits that the sheriff took possession of said property under his levy; which property consisted solely of the stock in trade and the books of account of the said bankrupt.

He admits that as the said sheriff was proceeding to sell such property under the said execution, the parties to this action entered into the agreement which is mentioned in the bill of complaint and attached thereto as an exhibit, and that the said property was thereupon delivered to the complainant, and charges that the complainant has disposed of the same for the sum of four thousand three hundred and ninety dollars, and that that sum is the full and true value of the property so as aforesaid levied upon and received by the complainant and sold by him under the said stipulation. He further avers that his execution was second and subject to the execution of Farrington and Small mentioned in the said stipulation, which execution was a valid and uncontested lien upon all of said property, and which, with the costs and charges thereon, amounts to the sum of six hundred and forty $\frac{64}{100}$ dollars, the complainant has paid according to said stipulation. He further avers that the sheriff's fees in the matter of his judgment and execution and property is the sum of five hundred and forty-seven $\frac{45}{100}$ dollars, and that the assignee's fees mentioned in the stipulation have not yet been ascertained.

He admits that his action was instituted against the said An-
21 drew Palmer, jr., upon the promissory notes mentioned in the complaint, dated, however, April 29, 1867, executed by the said Andrew Palmer, jr., to this defendant, his father.

He avers that he had often demanded payment thereof before he commenced said action. He avers that from time to time, and within six years before he brought said action, payments were made upon the said notes by the said Andrew Palmer, jr., who frequently also within said six years expressly promised, both verbally and in writing, to pay the same, and that, deducting such payments, there was due this defendant upon the said notes the amount of damages recovered by the said judgment.

He avers that the consideration of the said notes arose out of the following facts, to wit: From the fall of 1865 to the month of April, 1867, this defendant was a partner in the mercantile business in the county of Freeborn, in said State, with one N. S. Miller, and the said Andrew Palmer, jr., under the firm name of Miller and Palmer; and in April, 1867, the said firm was dissolved, and the said Andrew Palmer, jr., succeeded to the business thereof; that upon such dissolution the interests of the partners in the assets of the firm were fairly and carefully ascer-

tained, and the interest of this defendant was found to , as in fact it was, worth and was the sum of six thousand nine hundred and thirty-six $\frac{90}{100}$ dollars. That thereupon, and at the said time when the said firm dissolved, this defendant sold, transferred, and delivered to the said Andrew Palmer, jr., all his said interest for the said sum of $6,936.90, and took in payment therefor his three certain promissory notes,
22 being the same notes mentioned in the bill of complaint dated April 29th, 1867, and for $2,312.30 each, payable in thirty, sixty, and ninety days from date. That the said defendant gave for the said notes a valuable and adequate consideration.

He admits that he holds mortgage security for said notes, but only in manner and form and value and under the following circumstances, that is to say, in the fall of 1874 this defendant, after repeated efforts, demands, and failures to have the said notes paid, insisted upon security so far as the said Andrew Palmer had it in his power to give security for the balance due on the said notes, whereupon the said Andrew Palmer, jr., and his wife executed and delivered to this defendant a mortgage upon one hundred and sixty acres of land in the said county of Freeborn, described as follows, to wit: The south half of the southwest quarter of section twenty-eight and the west half of the northwest quarter of section thirty-three, all in town. 102, range 21.

And the defendant further alleges that the said property was then, and *and* for a long time prior thereto had been, the sole and separate property of the wife of the said Andrew Palmer, jr., and that by the said mortgage and the true intent thereof, and by the agreement of the parties thereto at the time when it was executed, and particularly by agreement between the said wife and this defendant, the said wife became surety for her husband for the amounts secured by said mortgage to the extent of such land, and that the said land by the said mortgage
was charged by her as surety and in suretyship for the said debt
23 so secured by it and not otherwise; and that to the extent of the value of such land she is one of the creditors of the said bankrupt.

That the said Palmer, jr., also executed a mortgage to the defendant upon his interest, which was an undivided two-thirds in lot sixteen, in block twenty-two, in the said village of Albert Lea, to secure the balance due on said notes, which mortgages are the same mortgages mentioned in the bill of complaint herein.

That the said 160 acres of the wife is worth the sum of two thousand dollars and no more, and the said interest of the said bankrupt in said lot sixteen is worth the sum of twelve hundred dollars and no more.

That the said property so mortgaged and the aforesaid property so levied upon will fall short of satisfying this defendant's judgment by the sum of $1,000 and more.

He avers, further, that all the creditors of the said bankrupt, at the date of the commencement of the proceedings in bankruptcy against him and at the time when the debts due them were contracted, had each of them full notice and knowledge of all and singular the facts hereinbefore pleaded in reference to the indebtedness and notes of the said bankrupt to this defendant, and in reference to the said mortgage and suretyship of the said wife.

He denies that he has ever abandoned his said mortgage security, or that he has ever had any fraudulent and unlawful interest in the premises, or any unlawful interest; that the whole of his said claim shall be made
from the assets of the said Andrew Palmer, jr., or to in any man-
24 ner relieve the said estate of the wife from any lien.

He admits that the firm of Lawly and Parker were his attorneys in the said suit brought *brought* by this defendant against the said Andrew Palmer in the district court for the county of Freeborn and State of Minnesota, and in which such judgment was rendered and execution issued; but he denies that they were the attorneys of the said bankrupt at any time. He avers that they were solely his, this defendant's, attorneys in the said matter; and he avers that in no manner, shape, or form did said attorneys, or either of them, represent or have any professional relations with the said bankrupt in the matter of the said suit, or in relation to any proceedings in said suit, or in relation to the said notes, or any relation whatever as attorneys or counsel

He avers that in all the matters aforesaid they and each of them were honestly and in good faith his attorneys, acting for him solely, acting wholly against the defendant in that suit, and in no way representing, counselling him, or advising him.

He says that he knows not and has not been informed, save by the complainant's bill, and cannot set forth as to his belief or otherwise, whether, at any time several or any of the creditors of the said bankrupt were present at Albert Lea, either in person or by representatives, or whether they ever counselled, advised, or entreated the said Andrew Palmer, jr., to do any of the acts charged in the bill of complaint to have been advised, counselled, or entreated for by them.

He denies that he, this defendant, and the said Andrew
25 Palmer, jr., ever, in any manner, or form, or to any end or for any object, whether, as stated in the said bill of complaint or otherwise, connived or colluded together for the purpose of giving this defendant an unlawful or fraudulent or any preference over his, the said Andrew Palmer, jr., other creditors? or that the said Andrew Palmer, jr., ever aided, or counselled, or assented, by any word or act, this defendant or any of his attorneys in procuring the entry or docketing of said judgment, or the issuing of the said execution or any levy thereof, or any act whatever in regard to said suit or to the bringing thereof.

He avers that he has no knowledge or information, save as stated in the said bill of complaint, and cannot state either the fact or his belief as to the amount of debts which have been proved in the said bankruptcy proceedings, or as to the amount of the assets of the said bankrupt, or as to what, if any, loss the general or any creditors may suffer in the premises if the relief prayed for in the bill of complaint is not granted, or as to whether in that case they will be remediless, or as to whether the said Andrew Palmer, jr., was ever insolvent.

He denies that the said Palmer, jr., did, on the 13th day of November, 1875, or at any other time procure his said property to be seized on said execution, whether as stated in the said bill of complaint or otherwise; that he ever had any view or intent or ever did any act with any view or intent to give a preference to this defendant; or that he, this defendant, then and there or ever had reasonable cause or any cause to believe, or that he then or ever knew that the said Andrew Palmer, jr., was in-
solvent, or that he ever knew that the entry or docketing of said
26, 27 judgment or the issuance or levy of the said execution was made or done by any person to prevent the property or any of the property of the said bankrupt from coming to his assignee in bankruptcy, or to prevent the same from being distributed under the bankrupt act, or to impair, or hinder, or impede or delay the operation or effect of said act, or to give any preference to the defendant, or that any act in the premises was ever done or procured to be done by any person in fraud of said bankrupt act, or that any of the acts mentioned in the complaint

were done by any person or between any persons corruptly or fraudulently, or in fraud of any act of Congress, or with intent to give an unlawful preference to this defendant.

And this defendant denies each and every allegation in the said bill of complaint contained save as admitted in this answer, and denies all and all manner of unlawful combination, conspiracy, intent or confederacy wherewith he is by the said bill charged, without this, that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary for this defendant to make answer unto and not herein and hereby well and sufficiently answered, confessed, traversed and avoided, is true to the knowledge of this defendant; all which matters and things this defendant is ready and willing to aver, maintain and prove as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

St. Paul, Minn.

DAVIS, O'BRIEN AND WILSON,
Defendant's Solicitors.

28 (Indorsed:) United States circuit court, district of Minnesota. Josias N. Rogers, assignee, &c., vs. Andrew Palmer, sr. Copy of answer. Original filed Apr. 3, 1876. Davis, O'Brien & Wilson, defit's solicitors.

29 And afterwards, to wit, on the twenty-seventh day of April, in the year of our Lord one thousand eight hundred and seventy-six, came the plaintiff by his solicitors, Rogers & Rogers, and filed his replication to the answer of defendant herein, in the words and figures following, to wit:

In the circuit court of the United States for the district of Minnesota.
In chancery.

The replication of Josias N. Rogers, complainant, to the answer of Andrew Palmer, sr., defendant.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith that he will aver and prove his said bill to be true, certain and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto by this repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as his honorable court
30 shall direct, and humbly prays as in and by his said bill he hath already prayed.

ROGERS & ROGERS,
& STACY & TYRER,
Complainant's Solicitors and Counsel.

31 And afterwards, to wit, at a stated term of said court, begun and held at the city of Saint Paul, in said district, on the second Monday in December, A. D. 1876, on the ninth day of January, A. D. 1877, the following proceeding among others was had, to wit:

J. N. ROGERS
vs.
ANDREW PALMER, SR.

This cause came on for hearing upon the pleadings and proofs therein, and was argued on the part of the plaintiff by E. G. Rogers, esq, and on the part of the defendant by C. K. Davis, esq.

And afterwards, to wit, at a stated term of said court begun and held at the city of Saint Paul, in said district, on the second Monday in December, A. D. 1876, on the tenth day of January, A. D. 1877, the following proceeding among others was had, to wit:

J. N. ROGERS
vs.
ANDREW PALMER, SR.

This cause coming on to be further heard, was further argued by counsel and submitted to the court, and by the court taken under
32 advisement.

And afterwards, to wit, at a stated term of said court, begun and held at the city of Saint Paul, in said district, on the second Monday in December, A. D. 1876, on the twelfth day of January, A. D. 1877, the following proceeding among others was had, to wit:

JOSIAS N. ROGERS
vs.
ANDREW PALMER, SR.

This cause having come on to be heard at this term, and having been argued by counsel and submitted and taken under advisement by the court, now the court being fully advised in the premises, it is by the court ordered, adjudged, and decreed that the plaintiff's bill of complaint in this cause be and the same is hereby dismissed out of court.

And it is further ordered, adjudged, and decreed that the plaintiff pay to the defendant his costs and charges by him in and about his suit in this behalf expended, to be taxed by the clerk of this court.

The solicitors of the respective parties being in court, the plaintiff, by Messrs. Rogers & Rogers, his solicitors, in open court prayed an
33 appeal from this decree to the Supreme Court of the United States.

Whereupon it is ordered by the court that such appeal be and the same is hereby allowed, and the amount on the bond on appeal is fixed at the sum of five hundred dollars, and it is ordered that said bond, when approved by the court, operate as a supersedeas, provided that the fund which is the subject of this litigation, and which is now in the district court for this district, shall, under the order and approval of the judge of that court, be so placed as to draw a reasonable interest.

And on the same day, opinion of court was filed in the clerk's office of said court, and the words and figures following, to wit:

ROGERS, ASSIGNEE OF A. PALMER, JR., BANKrupt,
vs.
ANDREW PALMER, SR.

This suit is brought to set aside a judg't & execution sale thereon, for

the reason that it was suffered by the bankrupt to give a fraudulent preference thereby. The evidence in my opinion fails to show that the bankrupt procured his property to be seized on execution,
34 or intentionally aided in securing the judgment against himself.

Decree accordingly.

R. R. NELSON, *Judge.*

And afterwards, to wit, on the nineteenth day of January, A. D. 1877, came Josias N. Rogers, the plaintiff, by his said solicitors, and filed in the clerk's office of said court his bond on appeal in the words and figures following, to wit:

JOSIAS N. ROGERS, APPELLANT,
vs.
ANDREW PALMER, SENIOR, RESPONDENT.

Know all men by these presents that we, Josias N. Rogers, of Saint Paul, Minnesota, as principal, and E. G. Rogers and Uri L. Lamprey, of the same place, as sureties, are held and firmly bound unto Andrew Palmer, senior, above named, in the sum of five hundred dollars, to be paid to the said Andrew Palmer, senior, his executors, and administrators, for which payment well and truly to be made, we bind ourselves,
35 and each of us jointly and severally, and our and each of our heirs, executors, and administrators firmly by these presents. Sealed with our seals and dated this eighteenth day of January, A. D. 1877.

Whereas the said Josias N. Rogers has taken an appeal to the Supreme Court of the United States from an order and decree in said above-entitled cause in favor of said defendant and against said plaintiff, made by and entered in the records of said circuit court on the 12th day of January, A. D. 1877, which appeal was allowed in open court on said last-mentioned date, and the penalty in the bond or security to be given on said appeal was fixed at said sum of five hundred dollars by said court:

Now, therefore, the condition of this obligation is such that if the above-named Josias N. Rogers shall prosecute his said appeal to effect, and answer all costs and damages if he shall fail to make good his plea, then this obligation shall be void, otherwise to remain in full force and virtue.

JOSIAS N. ROGERS. [SEAL.]
E. G. ROGERS. [SEAL.]
URI L. LAMPREY. [SEAL.]

Signed, sealed, and delivered in presence of—
WM. B. MCGRORTY.
HENRY C. JAMES.

36 DISTRICT OF MINNESOTA,
State of Minnesota, Ramsey County, ss:

Be it known that on this 19th day of January, A. D. 1877, came before me Josias N. Rogers, and acknowledged the execution of the foregoing instrument as his act and deed, and the said E. G. Rogers and Uri L. Lamprey, sureties upon said instrument, and each of them, acknowledged the execution of the same.

[NOTARIAL SEAL.] WM. B. MCGRORTY,
Notary Public, Ramsey County, Minnesota.

Which said bond on appeal bears the following indorsement thereon to wit:

I hereby approve the within bond & allow the appeal.

R. R. NELSON, *Judge.*

37,38 United States circuit court, district of Minnesota. In equity.

J. N. ROGERS, ASSIGNEE,
vs.
ANDREW PALMER, SR.

Depositions of F. W. Philbrick, Andrew Palmer, jr., J. M. Tyrer, Martin Howard, and T. J. Sheehan, witnesses of lawful age, produced, sworn, and examined before H. E. Mann, master and examiner in chancery of said court, on behalf of the plaintiff, commencing at 10 o'clock in the forenoon, on the ninth day of November, A. D. 1876, at his office in the United States custom house in the city of Saint Paul, in said district.

Present, Rogers & Rogers, solicitors for plaintiff; Davis, O'Brien & Wilson, solicitors for defendant.

39 United States circuit court, district of Minnesota.

JOSIAS N. ROGERS
vs.
ANDREW PALMER, SR.

NOV. 9, 1876.

F. W. PHILBRICK, a witness produced on the part of the plaintiff, being first duly sworn, deposes and says:

I reside in La Crosse, Wis.; am engaged in mercantile business; resided there in Nov., 1875; was then in the employ of Mars And[illegible] a wholesale merchant; was in his employ before that time. I was employed in the store and traveling, in selling goods and collecting money. I knew Andrew Palmer, j'r.; knew him in Nov., 1875. I then first made his acquaintance. He then lived in Albert Lea; was a merchant there; was subsequently put into bankruptcy. I was at Albert Lea about the middle of Nov., 1875. I was then selling goods and collecting money for Mr. Anderson. I then had a bill to collect against Andrew Palmer, j'r; it was past due. Mr. Anderson also had notes against him which I did not have with me. I don't recollect the amount of this account; think it was $300 or $400; am not positive. I was at Albert Lea the day before Andrew Palmer, sr., entered the judgment in dispute. I then saw Andrew Palmer, j'r. When I first saw him I went into his
40 store and introduced myself, and talked with about selling him some goods. We talked a few moments. He talked favorably of buying. He said he was busy just then, and wanted me to call in the morning. I told him very well, and went out. That was all the conversation we had at that time. The store was open and they were doing business apparently in the regular course; saw nothing unusual; he said nothing about any attachment. I next saw him at his house that evening. I had heard outside that his store was closed, and went to see him. I saw him at his house about 7 o'clock, just after supper. I asked him what was the matter, and he said there were some parties who tried to make him a little trouble, but he thought it would not

amount to anything. I asked him what trouble this was, and he told me it was some parties in Chicago that he had bought goods of. He claimed he bought them on 60 days' time, and in 30 days, he said, they drew on him for the bill, and he said he had the draft returned; then these parties wrote him and sent this draft or another one on again, and wrote him if it was not paid at once they should put it in an attorney's hands and have it shoved right through. He said this letter made him a little mad, and he wrote the parties, telling them they might shove it through if they wished, and he said they had. I asked him what he was going to do about it. He said that he was taking counsel, and thought he would get it fixed up the next day all right. That was all that amounted to anything. I simply told him I hoped he would.

41 I said nothing about our claim. I told him I would see him the next day.

Question. Did you know at this time of the commencement of the suit by his father, Andrew Palmer, s'r, against him, Andrew Palmer, j'r?

(Objected to by def't as irrelevant & immaterial.)

Answer. I did not.

Question. Where did you first learn of it, and how?

(Same objection as above.)

Answer. I heard through Mr. Stacy, of Albert Lea, the same evening after having the conversation with Mr. Palmer.

Question. Did you hear for about what amount this suit of Andrew Palmer, s'r, was commenced to recover?

(Same objection, and that it is incompetent.)

Answer. I heard that it was something over $8,000. I think I next saw Andrew Palmer, j'r, a day or two after this; don't think I saw him the next day, but it was before the 13th when judgment was entered in this suit of his father. I then called him just outside of his store. The store was closed. The sheriff was in the inside in possession taking an inventory—Mr. Sheehan, sheriff Freeborn County. I called him out and asked him what he was going to do about our claim. He said he had nothing to say about it, as everything was left with his attorneys, Messrs. Lovely & Parker. He said I might go and talk with

42 them. I says to him, "Mr. Palmer, it seems very strange that you and your father should have the same attorneys"; then I asked him if they were not his father's attorneys also; and he said that he did not know as they had the same attorneys, but that he had no time to talk with me just then, and left me. I knew before this conversation that his father had an attachment on his store.

Question. What induced you to call and interview Andrew Palmer, j'r, at that time?

(Objected to as incompetent, irrelevant, and immaterial.)

Answer. I wished to find out how his intention was to settle with his creditors, more particularly our claim.

Question. Did a knowledge of the fact of the attachment proceedings of his father against him also induce you to seek this interview with him?

(Same objection, and that the question is leading.

Question withdrawn.)

Question. Were there any other inducements besides this, and, if so, what?

(Objected to as incompetent, irrelevant, and immaterial.)

Answer. I wished to find out what his father's claim was also. It was something which I had not heard of until I came to Albert Lea. I did not see Andrew Palmer, j'r, after that, to have any conversation with

him. Subsequent to this time I was present at Messrs. Lovely &
43 Parker's office. at Albert Lea, Minn., at which time Andrew Palmer, j'r, was present; either Mr. Lovely or Parker was present, don't know which; it was at their law office; Martin Howard, of Chicago, was also present, and Mr. W. W. Cargill was there part of the time we were there. This was before the 13 Nov. I think the day before, but I am not certain.

Question. State what conversation took place between these parties at that place & time in which Andrew Palmer, jr., took part, or which occurred in his hearing and presence, as near as you can recollect, in reference to the affairs of Andrew Palmer, jr.

(Objected to as incompetent, irrelevant, and immaterial.)

Answer. I can't give the conversation just as it was. (I went there for the purpose of effecting a compromise.)

(Part inclosed in parentheses objected to as not responsive to the question, and def't asks to have it stricken out.)

I think Mr. Howard made him a proposition. I don't remember what that was; a condition of the proposition was that he was to get some good man as security to sign his paper with him. He said he could get a good man who would sign with him for any amount he wanted. I think Mr. Howard asked him to bring that man up, and he went and brought him up. I think Mr. Howard asked this man, who was Mr. Cargill, if he would sign his papers; and he said he would be
44 willing to sign Mr. Palmer's papers to a certain amount, which I do not recollect, but think it was in the neighborhood of $3,000 or $4,000. I don't remember what other conversation took place then. Nothing was effected.

Question. How came you to go to this meeting?

(Same objection.)

Answer. I went because Mr. Howard asked me to go over with him.

Question. Do you know who represented Andrew Palmer, jr., at this meeting?

(Same objection as last above.)

Answer. This Lovely or Parker had considerable to say about it; he seemed to talk in favor of Andrew Palmer, sr., also. I do not remember what they said.

Question. Do you know why this meeting was called at the office of Messrs. Lovely & Parker? If so, state it.

(Objected to as above.)

Answer. Well, I think I know, but am not positive about it. Mr. Howard, I think, called the meeting for the purpose of getting all the information he could out of the parties.

Question. Did you know at this time, or at the time of this meeting, that that day was the last day to answer in this case of Andrew Palmer, sr., against Andrew Palmer, jr.?

(Same objection.)

Answer. I did.

45 Cross-examination:

I think I arrived in Albert Lea the 7th or 8th of Nov., 1875; it was Monday. I remained until the 13th, Saturday morning. I first learned on Monday evening, the day of my arrival, of the suit pending between Andrew Palmer, jr., and Andrew Palmer, sr. Mr. Stacey did not state positively, but that he heard there was such a suit. I had no further conversation with Andrew Palmer, jr., about a suit between him & his

father; he never informed me there was such a suit. I never asked him if there was, as I remember.

Question. State whether your object in going to the office of Lovely & Parker, as you have testified, was to effect a compromise, or under that pretence to get information from the parties.

Answer. For both purposes.

F. W. PHILBRICK.

Plaintiff offers in evidence certified copy of judgment-roll in the case of Andrew Palmer, sr., against Andrew Palmer, jr., attachment, bond, affidavit, and order for attachment, return to attachment, also execution and return thereof, including inventories on execution & attach-
46 ment, which papers are all attached together and marked Exhibit A, and annexed hereto.

TIMOTHY J. SHEEHAN, a witness produced on the part of the plaintiff, being first duly sworn, deposes and says:

I live at Albert Lea; am sheriff of Freeborn County, Minn.; have been such sheriff for the last five years, pretty near. I know Messrs. Lovely & Parker, attorneys at Albert Lea, and Andrew Palmer, jr., and have seen Andrew Palmer, sr. I executed the processes, attachment, and execution, copies of which are in Exhibit A. There were two attachments which came to my hands at the same time, with orders to levy on the one in favor of Farrington & Small first.

(Certified copy of the judgment-roll, writ of attachment, bond, affidavit, & order for writ, and return of sheriff to writ, in suit of Farrington & Small vs. Andrew Palmer, jr., offered in evidence, and hereto attached, marked Exhibit B.)

* The writ of attachment in this case was levied first. I marked the attachment in this case No. one, and the one in the case of Andrew Palmer, sr., against Andrew Palmer, jr., No. 2. They were handed me at the same time, No. 1 coming into my hands the first. Mr. Parker, of firm of Lovely & Parker, handed me these writs; I think I was in the street when he handed them to me at Albert Lea. Mr. Parker told me when he handed the writs to go and attach the goods in Andrew Palmer, jr.'s, store. I think that is about all the conversation we had at that time. I went down to the store a few minutes afterwards. I found Andrew Palmer, jr., at the store, went up to him, and read the attach-
47 ment No. 1 to him first, and then No. 2, and demanded the keys to the store, and also the combination to the safe. I think this was on the 8th Nov., 1875. He said he had no objection to giving me up the key to the store, and handed it to me; don't recollect whether he gave me the combination of the safe at that time or afterwards, but he opened the safe and gave me possession of all the property in the safe, which I put a guard over. I got the combination of the safe a short time afterwards. He requested me to ho'd on with the attachments until the mail came in, as he expected he might settle up his father's arrangement if he could settle up other matters too, and also told me that he thought Mr. Cargill would secure his outside matters if his father would hold on and not go any further. I told him I would hold the levies good, and prepare matters abou the store for taking the inventory that afternoon. Some other conversation took place between us, and he requested me not to make a bill of expense until he could see whether he could settle the matter up or not. He did not wish me to hire clerks, &c., until he tried to settle.

Question. At the time that you notified Andrew Palmer, jr., that you held these two attachments against him, how did he appear and act?

(Objected to by defendant as incompetent, irrelevant, and immaterial.)

48 Answer. Well, he appeared to act kind of gloomy, and as though he felt kind of bad about it. He appeared reluctant to give the key at first; about as any party would when the sheriff goes to see them to serve such papers. I took possession under these writs of his entire property in the store, notes, books of account, &c., &c. I levied upon all the personal property I could find. There were a few articles in the cellar used for packing and working butter which I did find at the time. It was a keg or two of white fish and part of a keg of mackerel which were tainted and not good, and also part of a barrel or barrel of kerosene which was up stairs. I took everything else about the premises, as far as I know, but one large book which had been used in the business of Cargill as a wheat buyer. I don't remember when I got the next attachments against him. I think I had two from Mr. Stacy & Tyrer; can't say whether I served them or not. If I had any writs at all it was between the 8th & 13th Nov. I received none after the judgments. I don't remember that I did. I know J. N. Rogers, the assignee in this case. I turned over all the property which I levied upon to the assignee under the stipulation. Since I turned it over to the assignee I have had nothing to do with the property as sheriff.

Neither of these attachments were levied on the real estate. As

49 far as I knew, after I made these levies no one, only those in my employment, had access to this property. I levied the writs of attachment the same day they were handed to me. I think I levied the execution in the Farrington & Small case a day or two before I levied the one in the Andrew Palmer, sr., case. I have lived in Albert Lea quite a number of years; have known Andrew Palmer, jr., ever since he lived in Albert Lea, some 8 or 10 years.

Question. Do you know of your own knowledge of Andrew Palmer, jr., having while a resident of Albert Lea any law business; and, if so, how much?

(Objected to as incompetent, irrelevant, and immaterial.)

Answer. I do. I know of his having one pretty important suit, in which Mr. Johnson sued him for libel, and I also served papers when he sued 4 or 5 of his customers.

Question. Who was his attorney in all of these cases?

(Objected same as above.)

Answer. In the few cases in the justice court he had no attorney. In the suit between him and Mr. Johnson, Mr. Lovely, now of the firm of Lovely & Parker, was his attorney. Don't recollect that he ever sued any one in the district court where I served the papers.

Question. What have been the relations between Andrew Palmer, jr., during the two years immediately preceding the judgment in dispute in this cause, & Messrs. Lovely & Parker, or either or both of them, as to being friendly or otherwise?

50 (Objected to same as above.)

Answer. It would be pretty hard work for me to answer this. The relations apparently between them was friendly.

Question. Did you see Mr. Andrew Palmer, jr., often in Messrs. Lovely & Parker's office after the attachments were made and before the judgment was rendered and execution issued; and if so, how often?

(Same objection.)

Answer. I saw Mr. Palmer in Mr. Lovely's office the time testified to by Mr. Philbrick and twice afterwards.

Cross-examination:

Don't remember the day of the week these attachments were delivered to me. They were given to me between 1 & 2 o'clock p. m., probably about 2 o'clock. I made the levy a very few minutes after I received the attachments by reading them to him (Andrew Palmer, jr.). I took possession after a very few minutes' conversation. Albert Lea is on the line of the So. Minn. R. R. One train (passenger) went east in the morning from Winnebago City, and one west from La Crosse through Albert Lea at that time. These were the only passenger trains on that road at that time. The train that went west arrived at Albert Lea between 3 & 4½ o'clock p. m. at that time. I was present most of the time while
51 F. W. Philbrick was giving his testimony this morning. I knew that Mr. Philbrick. I saw him on the afternoon when I levied these attachments at the Palmer store, Andrew Palmer, jr.'s, store; had a few words of conversation with him.

Question. State what was said at that time.

(Objected to as incompetent and immaterial by pl'ff.)

Answer. He came in and introduced himself to me, and said he was in the interest of Mons Anderson; that Palmer was owing him $1,500 or $1,600 for goods which he had sold him. He then looked at the stock, and wanted to know of me what he could do about it; if there was any show for him. I told him he had better go and see Stacy & Tyrer; and also told him I was holding those attachments for Lovely & Parker against the goods. That was about all the conversation that I recollect. Don't think that Andrew Palmer, jr., was in the store at that time. This was long towards evening; long 4 or 5 o'clock, or about then. The Mr. Johnson who had a suit with Mr. Palmer was A. E. Johnson. He resided at that time at Albert Lea, and still resides there. Stacy & Tyrer were Mr. Johnson's lawyers in that suit—Mr. Tyrer who is present at this examination. Mr. Palmer was not more intimate with Mr. Lovely & Parker than other persons were upon whom I served papers issued from the office of Lovely & Parker. I don't think they were so intimate. I have heard Mr. Palmer censure
52 Mr. Lovely and Mr. Lovely censure Mr. Palmer. I don't think they were warm personal friends. I am speaking of Mr. Lovely and Mr. Palmer. I don't know how Mr. Palmer & Mr. Parker stand.

(Testimony of Mr. Sheehan from where the * appears in the margin was all taken under the objection of the defendant as being incompetent and irrelevant.)

T. J. SHEEHAN.

ANDREW PALMER, Jr., a witness produced on the part of the plaintiff, being first duly sworn, deposes and says:

I live at Albert Lea, Minn.; have lived there about 10 years; until Nov., 1875, I was engaged in general merchandizing. This Andrew Palmer, sr., is my father. He resides at Janesville, Wisconsin. I recollect this suit of my father being commenced against me. The summons was served in the latter part of October, 1875. The sheriff handed the paper to me. When the sheriff levied on the attachments, he levied on all the property which I had. I mean the personal property. He did not take into his possession the $2,325 of money, or about that, mentioned in my schedules. This money I had. I had possession of it. It was not in the safe at the store; not in the bank; not on my person.

I had it on deposit with W. W. Cargill, of La Crosse, Wisconsin. I kept a bank acct. at that time at Albert Lea, with H. D. Brown.

53 Question. When did you deposit this money with Mr. Cargill, or about when?

(Objected to as incompetent, irrelevant, and immaterial.)

Answer. I cannot tell. Some time in latter part of October or fore part of November, 1875.

Question. Did you deposit it all with him at one time?

(Same objection.)

Answer. No, I think not We had an exchange account.

Question. How much did you deposit with him after this summons in the suit of your father against you was served?

(Same objection.)

Answer. I can't hardly tell, but I think it was all deposited with him after that. It is my impression; I would not be certain about it.

Question. Did you not owe debts in your business that were overdue at the time the summons was served, and at the time of this deposit?

(Same objection.)

Answer. Perhaps I did. I had always been accustomed to make drafts on Mr. Cargill to meet my obligations. I had used him as another bank.

Question. Was there any mutual change in the amount of the property owned and possessed by you between the time the attach-

54 ment in the suit of your father against you was levied and the time you swore to these schedules in bankruptcy, on the 8th day of December, 1875?

(Same objection.)

Answer. No; none whatever, to my knowledge.

Question. Was there any in the value; and, if so, how much?

(Same objection.)

Answer. None that I know of.

Question. Was there any difference in the amount of your debts and liabilities between these two dates?

(Same objection.)

Answer. I created no liabilities after the service of the attachment, except living expenses. My liabilities are not any way any less at the last date.

Schedule in the bankruptcy case of A. Palmer, jr., shown witness.

Question. Is that a truthful statement of your debts & liabilities, and of your property, at that date?

(Same objection.)

It is here admitted that Andrew Palmer, jr., was insolvent at the time the suit of his father against him was commenced, and at the time the execution in that suit was levied. And it is stipulated that either

55 party may, on the hearing in this case, read in evidence any of the papers in the bankruptcy case of A. Palmer, jr., except the testimony of A. Palmer, jr, and that the same may be considered in evidence.

Question. Who were the attorneys of your father in his suit against you?

Answer. Lovely & Parker.

Question. Who first presented his claim to you for payment?

(Same objection.)

Answer. Mr. Lovely.

Question. How long was this before the summons in that case was served on you?

(Same objection.)

Answer. I think it was a day or two.

Question. What conversation occurred between you and Mr. Lovely at that time?

(Same objection.)

Answer. I told him I could not pay it. He said, I have a claim against you, and presented it for payment. I then said I could not pay it. He said he had instructions to collect it. I don't remember that he showed me the notes.

Question. Did he say anything about whether or no he had the notes?

(Same objection.)

Answer. He told me he had the claim of my father for some notes that I owed him.

56 Question. What reason, if any, did you give Mr. Lovely for not paying the notes?

(Same objection.)

Answer. That I could not pay them.

Question. Did you tell him why you could not pay them?

(Same objection.)

Answer. I don't remember that I did.

Examination adjourned until 9 o'clock in the morning, Nov. 10, 1876.

NOVEMBER 10, 1876.

Parties appeared by their solicitors. Andrew Palmer, jr., the witness, also appears, and his examination being resumed, he further says:

Question. Did you have any conversation with Mr. Parker at that time about the notes you owed your father?

(Same objection.)

* Answer. I did not. When I told Mr. Lovely I could not pay the notes, he said he should have to sue me; don't remember just what reply I made. The sheriff served the summons within a couple

57 days after this conversation, I think. I did not notify any of my creditors of the commencement of this suit. Did not interpose any answer; did not make an assignment or go into bankruptcy. I knew that this claim of my father was partially secured by mortgage on land owned by me, and by mortgage on land owned by my wife. I did not see my father between the time this claim was presented until judgment was entered. I am not sure whether I wrote him during that time or not. Come to think of it, I did write to him. Don't think I wrote more than one letter. I had the following conversations with Messrs. Lovely & Parker from the time the suit was commenced up to the time of the entry of judgment. I had conversation with them when Mr. Philbrick was present; saw them occasionally between these times, and was also in their office occasionally. Since my residence in Albert Lea, I have had more or less law business. It has generally been in justice court, and I have attended to it myself. When I have employed an attorney, have employed Mr. Lovely. Never have employed any other attorney in Albert Lea. I will amend that answer by saying that I have employed Mr. Gulbranson, probate judge. Mr. Lovely has been my general attorney in what few cases I have had. I don't know that I have seen the notes representing my father's claim for two or three years. There had been some payments on these notes on account of

principal; can't state the amount. I paid the interest on them

58 twice a year, generally. I paid interest in 1875, but can't remember the date; it strikes me it was in May. My father was last in

Albert Lea in July, 1875. I don't know that my father really demanded payment of these notes before they were placed in the hands of Lovely & Parker; he wanted payment when the mortgages were given, but it was impossible for me to make it then, and he let it rest. This was some time in Oct., 1874. I recollect of Howard & Philbrick being at Albert Lea the day before the judgment was entered; they both told me they represented claims against me, and presented them. Howard claimed to represent C. M. Henderson & Co., of Chicago, before the inventory was taken by the sheriff; did not know just the amount of stock I had on hand; I had an idea of the amount. I remember this being a suit brought in the district court of Freeborn Co., by some of my creditors, to enjoin the clerk of the court & others from entering up judgment in favor of my father. I think it was the day before the judgment was entered. I remember a motion being made to dissolve that injunction. I made an affidavit, used on that motion. Messrs. Lovely & Parker appeared for my father on that motion.

(Plaintiff offers in evidence certified copy of the whole record in that suit, which is marked Exhibit C, and hereto attached.)

I think I was called up to Mr. Lovely & Parker's office when I signed this affidavit; think Mr. Parker called me up; think it was in
59 the morning of the same day judgment was entered in the suit of my father against me. I was in court most of the time when the motion to dissolve the injunction was argued. I have not a copy of the letter I wrote my father after his suit against me was commenced. My father replied; I have not his letter with me; don't know whether I have his letter preserved or not. I showed this letter to Sigmund Hanauer.

Question. What was the contents of the letter you wrote your father after the suit was commenced?

(Objected to as being incompetent, irrelevant, and immaterial; that no notice has been served to produce either the letter or the copy, and it has not been shown that the original cannot be produced in evidence.)

Answer. I wrote to him requesting him to accede to a compromise upon his claim in case I could effect one with the other creditors. Howard & Philbrick were at Lovely & Parker's office in the evening of 12th Nov., 1875; Mr. Parker was present; I went at the instance of Mr. Martin Howard, of Chicago, to see if Messrs. Lovely & Parker was authorized to compromise my father's claim. There was an arrangement offered by Mr. Martin Howard for effecting a general compromise with all my creditors. The proposition of Mr. Howard was to accept the amount of the assets pro rata in full for all the proven liabilities. I think I offered to pay 50 cents on the dollar and take the assets.
60 Mr. Parker was present and heard this conversation. Mr. Howard agreed to accept the assets for the liabilities, and assured me there would be no difficulty in obtaining the consent of all the creditors to this arrangement, if I could produce responsible security. I produced Mr. W. W. Cargill, of La Crosse, the man I had this $2,300 deposited with. We adjourned the meeting until morning without arriving at a settlement, Mr. Howard assuring me there would be no difficulty in effecting a compromise in the morning; we were to meet at the same place, at 8 o'clock in the morning following. At the time appointed Mr. Cargill and myself and Mr. Parker, representing my father, were in attendance, but Mr. Howard was not there. Mr. Cargill did not refuse to become security for a greater sum than $3,000; he offered to become security for the full amount of my assets. Mr. Howard claimed to be able to effect a compromise with all my creditors.

Question. Whom did Mr. Martin Howard claim to represent?

Answer. He claimed to represent C. M. Henderson & Co., and I understood he represented all my creditors. He told me he could effect a compromise with all my creditors, except my father. He stated this positively. He said he would compel them to compromise. Mr. Parker said he did not feel fully authorized to enter into the compromise on the part of my father, but thought it could be effected with him.*

61 (All between the two stars was taken under the objection by defendant that it was incompetent, irrelevant, and immaterial.)

Cross-examination:

Mr. Philbrick was not there the next morning; he did not appear to take much part in the effort to compromise. Howard was the moving spirit; he did most of the talking. I never employed Lovely & Parker, or either of them, as my general attorneys.

ANDREW PALMER, JR.

A. M. TYRER, a witness produced on the part of the plaintiff, being first duly sworn, deposes and says:

I am an attorney-at-law, living at Albert Lea. I know Andrew Palmer, jr., and Messrs. Lovely & Parker. I recollect the time the attachment was levied, which was issued in suit of Andrew Palmer, sr., against Andrew Palmer, jr. I saw Andrew Palmer, jr., several times soon after that in the office of Messrs. Lovely & Parker; don't remember how many times, but I remember seeing him in there several times about that time. I think I saw him in there after the attachment

62 and before the judgment, and I know I saw him in there several times about that time. On at least one occasion he was working on some books, and had some papers that looked like notes or checks; were about the size of notes or checks; did not see the papers to know what they were; merely saw him at work at them. I was present at the time the motion to dissolve injunction was argued in case C. M. Henderson & Co. vs. Clerk of Court and Others. Andrew Palmer, jr., was present during that argument. The argument commenced about noon, and continued until 4 or 5 o'clock in the afternoon. Mr. Palmer was present during the time, and appeared to be taking keen interest in the result of the motion.

Cross-examination:

I will not swear positively that I saw Mr. Palmer in Messrs. Lovely & Parker's office between those two dates, i. e., between levy of attachment and entry of judgment.

A. M. TYRER.

Testimony of Mr. Tyrer taken under the objection that it is incompetent, irrelevant, and immaterial.

Plaintiff offers in evidence the notice of demand, which is marked Exhibit D and hereto attached.

63 Defendant objects to the admission on the ground that it is incompetent, irrelevant, and immaterial, but admits that it was duly served.

Defendant admits that at the time of the commencement of the suit of Andrew Palmer, sr., against Andrew Palmer, jr., and prior to that time, that there were at least two other firms of attorneys doing business at said Albert Lea besides Lovely & Parker.

Examination adjourned until Saturday morning, Nov. 11, 1876, at 10 o'clock.

SATURDAY MORNING, *Nov.* 11, 1876.

Parties appeared.
Adjourned by consent to Monday morning, Nov. 13, at 9 o'clock.

NOVEMBER 13.

Parties appeared by their attorneys.

MARTIN HOWARD, a witness produced on the part of the plaintiff, being first duly sworn, deposes and says:

I reside in Chicago; am an attorney at law; know Andrew Palmer, jr., of Albert Lea. I first became acquainted the day before the entry of judgment case of Andrew Palmer, sr., vs. Andrew Palmer, jr. I went to Albert Lea at the instance of C. M. Henderson & Co., of Chicago, creditors of Andrew Palmer, jr., as attorney for them. I found
64 Mr. Palmer at his house, and there learned for the first time that his father held a claim against him for the sum of something like $8,000, and that he would proceed to take judgment on the following day. I asked Mr. A. Palmer, jr., how this was and why he consented to any such transaction, and explained to him the importance of letting his creditors know his true condition as I looked at it. He answered that his father was his most intimate friend, and he thought he was the man above all others that should be taken care of, or words to that effect. I asked him if he knew that his father or his father's agents had sworn as a basis for a writ of attachment that he was about to dispose of his property with intent to defraud his creditors. He said he did. I asked him if this was true. He said he did not want to talk with me about the case any further, but would go with me to his attorneys, who were also the attorneys of his father; we went and found one of the firm of Lovely & Parker, the attorneys—I think Mr. Parker, am not positive. Mr. Andrew Palmer, jr., had a private consultation with the member of the firm present, while I sat in the front office, and when they returned to me it was proposed that we should think about any proposition that might be made and report at that office in the evening when the other member of the firm of Lovely & Parker would also be present; this was some time in the afternoon, I think about 4
65 o'clock, but don't recollect the exact hour.

In the evening I went in company with a gentleman, think it was Mr. Philbrick, to the office of Lovely & Parker; found A. Palmer, jr., Lovely, &, I believe, Parker, and perhaps one or two other gentlemen present; can't recollect their names. Mr. Palmer took me one side; said he had had a conversation with Mr. Lovely, and believed that a settlement could be arranged if all parties were disposed to do the fair thing. Very many propositions were made during the evening; the most tangible of which was a proposition to take 50 cts. on the dollar, secured in good notes, payable at some future time; and Mr. Palmer thought Mr. Cargill would sign his notes. We immediately sent for Mr. Cargill. Mr. Cargill refused to sign for 50 cents, on the dollar without he could know the amount of the indebtedness, as I recollect it, but would sign for 50 cents on the dollar of the assets of Andrew Palmer, jr. I told them that so far as the claim I represented I would be glad to settle on a basis of 50 cents, and believed that I could induce all the Chicago and Milwaukee creditors to join in such an arrangement, and I think there was a disposition on the part of all the parties present to make this arrangement. And, I believe, Mr. Cargill was favorably disposed towards signing the notes, but not having representation of all the claims there, I asked Lovely & Parker and Andrew Palmer,

66 jr., to permit the claim of Andrew Palmer, sr., to remain in statu quo, and not to take judgment, as they said they had the right to do under the laws of the State of Minnesota the next day, until such time as I could get to Milwaukee & Chicago and see the creditors. This they refused to do. Mr. Palmer said that his father was entitled to the judgment, and Mr. Lovely insisted that he must take it, so we concluded no arrangement that evening. I then or before had commenced the preparation of a proceeding by injunction in favor of C. M. Henderson & Co. against Andrew Palmer, sr., his attorneys and agents, Andrew Palmer, jr., Lovely & Parker, and the clerk of the court, to prevent the entering up the judgment in favor of Andrew Palmer, sr. The injunction was procured and served as I understand it. The next morning when I went out of my hotel, I met Messrs. Lovely & Palmer, and I also met Andrew Palmer, jr., don't think they were together; think I met Andrew Palmer, jr., first between his house & Lovely & Parker's office. Mr. Palmer said, "I suppose you think you are smart, but we will show you that you can't do that thing." I think I made no reply. I went down as far as the court-house on my way to the depot. There was some excitement about the court house in relation to this case. I called a few minutes at the court-house, found Lovely & Parker, or one of them, and he made very much the same remark as Mr. Palmer did; that is, "we will show you," and further said, "We will have this injunction dissolved before noon"; said he knew my object, and it was to stave off the judgment
67, 68 until I could get to St. Paul or send there and have a petition in bankruptcy filed against Andrew Palmer, jr. I remember no further conversation then. I went to Chicago. During the conversation in Lovely & Parker's office in the evening when Cargill was present, Mr. Lovely or Parker were present, one of them, if not both. I can't see how it could be otherwise than that they heard this proposition of fifty cents on the dollar. They or one of them was present in the office, and took part in the conversation. In our conversations Mr. A. Palmer, jr., frequently referred to Lovely & Parker as his attorneys and as his father's attorneys. I asked him how his father happened to send this claim to Lovely & Parker. His only answer was "They are the best attorneys here."

(The foregoing testimony of the witness Howard was taken under the objection interposed by defendant that the transactions detailed do not bind or affect Andrew Palmer, sr.)

MARTIN HOWARD.

Examination adjourned until Tuesday morning, Nov. 14, at 10 o'clock.

TUESDAY MORNING, *Nov.* 14, 1876.

Plaintiff appeared by his solicitors and announced the testimony on his part closed.

69 UNITED STATES OF AMERICA,
District of Minnesota, ss:

I, H. E. Mann, master and examiner in chancery of the circuit court of the United States of America for the district of Minnesota, do hereby certify that I was attended by the parties, by their solicitors, at the times and place as stated in the caption and foregoing depositions, and by the said witnesses therein named, and that the said witnesses, being of sound mind and lawful age, were each, before the commencement of the taking of his or her deposition, by me duly and publicly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth,

in the cause aforesaid; and that the deposition of each as given was reduced to writing by myself in the presence of such witness and the said solicitors, and from the statements of the witness; and that the deposition of each witness when completed was by me carefully read over to such witness and subscribed by such witness in presence of the said solicitors of the parties to said suit.

And I further certify that the exhibits returned with these depositions are the ones referred to therein, and that in the caption and said depositions is contained a complete record of all the proceedings before me at the time of the taking of the same.

In testimony whereof I have hereunto set my hand this 11th day of Dec., A. D. 1876.

H. E. MANN,
Master and Examiner in Chancery.

Fees: 3 days' attendance, $9.00; oaths to 5 witnesses, 50; 70 folios of testimony, 14.00; 3 exhibits certified, 75—total, $24.25.

70 (Indorsed:) United States circuit court, district of Minnesota. J. N. Rogers, assignee, vs. Andrew Palmer, sr. Depositions of witnesses on behalf of plaintiff, taken before H. E. Mann, master and examiner in chancery. Fees, $24.25.

71 District court, tenth judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

ANDREW PALMER, SEN., PLAINTIFF,
against
ANDREW PALMER, JR., DEFENDANT. } No.

The summons in this action having been personally served on the above-named defendant, Andrew Palmer, jr., on the 23d day of October, A. D. 1875, and more than twenty days having since elapsed, and no copy of an answer or demurrer to the complaint on file having been served on plaintiff's attorneys, as required by the summons; and this being an action on contract for the recovery of money only: Now, on motion of Messrs. Lovely & Parker, said attorneys, it is hereby adjudged that the plaintiff herein recover of said defendant, Andrew Palmer, jr., the sum of eight thousand four hundred thirty-three dollars damages, with fifty dollars costs and disbursements, in all amounting to $8,483.00.

Signed this 13th day of November, A. D. 1875.

[SEAL.] A. W. WHITE, *Clerk.*

Amount claimed in summons	$8,433 00
Amount interest claimed in summons	$8,433 00
Costs and disbursements:	
Statute costs, $10.00	
72 No. , 6 affidavits	$1 50
Sheriff's fees	$40 00
Clerk's fees	$6 50
Court em. fee	2 00
	$50 00
	$8,483 00

(Endorsed) No. . District court, Freeborn County. Andrew Palmer, sen., plaintiff, against Andrew Palmer, jr., defendant. Judgment roll. Filed on the 13 day of Nov., A. D. 1875. A. W. White, clerk. , plaintiff's attorney.

Affidavit of disbursements.

STATE OF MINNESOTA,
County of Freeborn, ss:

ANDREW PALMER, SEN., PLAINTIFF,
against
ANDREW PALMER, JR., DEFENDANT. } Court.

Costs and disbursements.

Statute costs		$10 00
Disbursements:		
6 affidavits & ack. 2		$1 50
Sheriff's fees serving summons on attachment		$40 00
Clerk's fees		$6 50
73 Court costs		$2 00
Witness fees	$	
		$50 00
Amount claimed in summons:		
Principal claimed in summons	$8,433 00	
Interest	$	
Total	$8,483 00	

STATE OF MINNESOTA,
County of Freeborn, ss:

James H. Parker this day came personally before me, and having been first duly sworn, he doth depose and say that he is one of the attorneys of said plaintiff in the above-entitled cause; that the above bill and items of costs and disbursements therein are just and correct, and have been necessarily incurred therein.

JAMES H. PARKER.

Subscribed and sworn to before me on this 13 day of November, A. D. 1875.

[SEAL.] A. W. WHITE,
Clerk Dist. Court.

I hereby certify that I have this day taxed the costs and disbursements of the plaintiff in the foregoing entitled action, and assessed the same at $50.00.

Dated this 13 day of November, A. D. 1875.

A. W. WHITE, *Clerk.*

74 (Indorsed:) State of Minnesota, county of Freeborn. District court. 10th judicial district. Andrew Palmer, sen., against Andrew Palmer, jr. Affidavit of disbursements. Filed on the 13th

day of November, 1875. A. W. White, clerk. , attorney for plaintiff. 9 a. m.

Affidavit of no answer.

District court, 10th judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

ANDREW PALMER, SEN., PLAINTIFF,
vs.
ANDREW PALMER, JR., DEFENDANT.

STATE OF MINNESOTA,
County of Freeborn, ss:

James H. Parker this day came personally before me, and having been first duly sworn, he doth depose and say that he is one of the attorneys for the plaintiff in the above entitled action, and that no answer or demurrer, or copy of either, has been received by the plaint-
75 iff's attorney in this cause, and prays judgment according to law.

JAMES H. PARKER.

Subscribed and sworn to before me on this 13th day of Nov., 1875.
[SEAL.]

A. W. WHITE,
Clerk Dist. Court.
H.

(Indorsed:) Dist. court, 10th jud. dist. Freeborn County. Andrew Palmer, sen., against Andrew Palmer, j'r. Affidavit of no answer, &c. Filed Nov. 13, 1875. A. W. White, clerk. 9 a. m. Attorney for plaintiff.

District court, 10th judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

ANDREW PALMER, SENIOR, PLAINTIFF,
against
ANDREW PALMER, JR., DEF'T.

Know all men by these presents that Andrew Palmer, sr., the above named, as principal, and James H. Parker and John A. Lovely, as sureties, are held and firmly bound unto Andrew Palmer, jr., de-
76 fendant in the above entitled action, in the sum of two hundred & fifty dollars, lawful money of the United States, to be paid unto the said Andrew Palmer, jr., his heirs, executors, administrators, or assigns; for which payment, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents. sealed with our seals and dated this 5th day of November, A. D. 1875.

The condition of this obligation is such that whereas the above-named plaintiff ha' applied to the proper officer for a writ of attachment against the property of Andrew Palmer, jr., defendant in said action, and has filed an affidavit pursuant to the statute in such case provided.

Now, therefore, if the said plaintiff shall pay all costs that may be awarded to said defendant (if he recover judgment in said action), and all damages which he may sustain by reason of the attachment not exceeding the sum of two hundred & fifty dollars, then this obligation shall be void, otherwise of force.

In testimony whereof we have hereunto set our hands and seals on this 5th day of November, A. D. 1875.

ANDREW PALMER, SR.,
By LOVELY & PARKER, [SEAL.]
His Att'ys.
J. H. PARKER. [SEAL.]
JOHN A. LOVELY. [SEAL.]

Signed, sealed, & delivered in presence of—

77 STATE OF MINNESOTA,
County of Freeborn, ss:

Be it known that, on this 5th day of November, A. D. 1875, came before me personally Andrew Palmer, sr., by Lovely & Parker, his att'ys, & J. H. Parker, & to me well known to be the same persons who executed the foregoing bond, and each severally acknowledged the same to be his own free act and deed.

[L. S.] C. B. KELLAR,
Notary Public, Freeborn Co., Minn.

STATE OF MINNESOTA,
County of Freeborn, ss:

J. H. Parker & J. A. Lovely upon oath doth say, each for himself, that he is one of the sureties above-named, that he is a resident and freeholder of and in the State of Minnesota, and worth the amount of two hundred and fifty dollars, specified in the foregoing bond, above his debts and liabilities, and exclusive of his property which is exempt from execution.

J. H. PARKER.
JOHN A. LOVELY.

Subscribed and sworn to before me on this 5th day of Nov., A. D. 1875.

[L. S.] C. B. KELLAR,
Notary Public, Freeborn Co., Minn.

78 (Indorsed:) District court, 10th judicial district, county of Freeborn. Andrew Palmer, sen., against Andrew Palmer, jr. Bond in attachment.

I hereby approve the within bond and the sureties thereon.
Dated Nov. 5, A. D. 1875.
[SEAL.] B. H. CARLEN,
Court Comm'r.

Plaintiff's Attorney.

Filed Nov. 6, 1875.

A. W. WHITE, *Clerk.*

District court, 10th judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

ANDREW PALMER, SENIOR, PLAINTIFF,
against
ANDREW PALMER, JR., DEFENDANT.

STATE OF MINNESOTA,
County of Freeborn, ss:

James H. Parker, being first duly sworn, doth depose and say that he is one of the attorneys for Andrew Palmer, the plaintiff in the above entitled action, which is brought for the recovery of money, and that a summons has been issued in said action; that a cause of action exists against the defendant and in favor of said plaintiff; that the amount of the plaintiff's claim in said action is $8,433 (eight thousand four
79 hundred and thirty-three dollars), and *and* the ground thereof is as follows, that is to say: On the 29th day of April, 1867, said defendant made and delivered to pl'ff three promissory notes, each for $2,312.30, payable in 30, 60 & 90, days, respectively; that on each of said notes said def't has made payment within 6 years, & in writing promised to pay the same; that there is now due and unpaid thereon the sum of $8,435; and that said defendant is about to dispose of his property with intent to delay and defraud his creditors, and prays that a writ of attachment may be allowed and issued against the property of said defendant, according to the statute in such case made and provided; and deponent further says that no previous application for such writ or for an order therefor has been made in said action; and further says not.

JAMES H. PARKER.

Subscribed and sworn to before me on this 5th day of Nov., A. D. 1875.

[SEAL.]

C. B. KELLAR,
Notary Public, Freeborn Co., Minn.

(Indorsed:) District court, 10th judicial district, county of Freeborn. Andrew Palmer, sen., against Andrew Palmer, jr. Affidavit for attachment.

To the clerk of said court:

On filing the within affidavit and a bond approved by me in
80 the within entitled cause, let a writ of attachment issue as within prayed.

Dated Nov. 5, 1875.

[SEAL.]

B. H. CARTER,
Court Com'r.

Filed Nov. 6, A. D. 1875.

A. W. WHITE,
Clerk of said Court.

Plaintiff's Attorney.

$2,312.30.] JANESVILLE, *April* 29, 1867.

Thirty days after date, for value received, I promise to pay Andrew Palmer, sen., or order, at office of A. Palmer & Sons, Janesville, Wis.,

two thousand three hundred & twelve & $\frac{30}{100}$ dollars, with interest at the rate of seven per cent. per annum after date until paid.

ANDREW PALMER, JR.

(Across the face:) Judgment Nov. 13, 1875.

Know all men by these presents that whereas the subscriber is justly indebted to Andrew Palmer, sen., upon a certain promissory note, bear-even date herewith, for the sum of $2,312.30 dollars, with interest at the rate of per cent. per annum, due thirty days after date, and payable at Janesville, Wis.:

Now, therefore, in consideration of the premises, I do hereby make, constitute, and appoint John Winans, or any att'y of any court of record, to be my true and lawful attorney, irrevocably for me and in my name, place, and stead, to appear in any court of record in term time, or
81 in vacation, in any of the States or Territories of the United States, at any time after the said note becomes due, to waive the service of process, and confess a judgment in favor of the said Andrew Palmer, sen., or his assigns or assignees, upon the said note for the above sum, or for as much as shall appear to be due according to the tenor and effect of said note, and interest thereon to the day of the entry of said judgment, together with costs and attorneys fees; and also to file a cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted upon the judgment entered by virtue hereof, nor any bill of equity filed to interfere in any manner with the operation of said judgment, and to release all errors that may intervene in the entering up said judgment or issuing the execution thereon. Hereby ratifying and confirming all that my said attorney may do by virtue thereof.

Witness my hand and seal this 29th day of April, A. D. 1867, at Janesville, Wis.

[SEAL.] ANDREW PALMER, JR.

In presence of—
CHAS. R. PALMER.
HATTIE M. PALMER.

Nov. 13, 1868.	Rec'd four hundred seventy-nine $\frac{37}{100}$	dolls	....	$479.37
Mar. 29, 1871.	Rec'd seventeen & $\frac{74}{100}$	"	....	17.74
Dec. 24, 1871.	Rec'd forty-six & $\frac{67}{100}$	"	....	46.67
May 13, 1872.	Rec'd forty-eight & $\frac{34}{100}$	"	....	48.34
82 Nov. 25, 1872.	Rec'd forty-six & $\frac{67}{100}$	"	....	46.67
June 3, 1873.	Rec'd one hundred & forty-five	"	....	145.00
June 3, 1875.	Rec'd one hundred & forty-five	"	...	145.00
	(In pencil)			928.79

$2,312.30] JANESVILLE, *April* 29, 1867.

Sixty days after date, for value received, I promise to pay to Andrew Palmer, sen., or order, at office of A. Palmer & Sons, Janesville, Wis., two thousand three hundred & twelve & $\frac{30}{100}$ dollars, with interest at the rate of seven per cent. per annum after date until paid.

ANDREW PALMER, JR.

(Across the face:) Judgment Nov. 13, 1875.

Know all men by these presents that whereas the subscriber is justly indebted to Andrew Palmer, sen., upon a certain promissory note bear-

ing even date herewith, for the sum of $2,312.30 *dollars*, with interest at the rate of seven per cent. per annum, due sixty days after date, and payable at Janesville, Wis.:

Now, therefore, in consideration of the premises, I do hereby make, constitute, and appoint John Winans, or any attorney of any court of record, to be my true and lawful attorney, irrevocably for me and in my name, place, and stead, to appear in any court of record, in term time or in vacation, in any of the States or Territories of the United States, at any time after the said note becomes due, to waive the service of process and confess a judgment in favor of the said Andrew
83 Palmer, sen., or his assigns or assignees, upon the said note for the above sum, or for as much as shall appear to be due according to the tenor and effect of said note and interest thereon, to the day of the entry of said judgment, together with costs and attorney's fees; and also to file a cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted upon the judgment entered by virtue hereof, nor any bill of equity filed to interfere in any manner with the operation of said judgment, and to release all errors that may intervene in the entering up said judgment or issuing the execution thereon. Hereby ratifying & confirming all that my said attorney may do by virtue hereof.

Witness my hand and seal this 29th day of April, A. D. 1867, at Janesville, Wis.

[SEAL.] ANDREW PALMER, JR.

In presence of—
CHAS. R. PALMER.
HATTIE M. PALMER.

Nov. 13, 1868.	Rec'd four hundred seventy-nine $\frac{37}{100}$	dolls....	$479 37
M'ch 29, 1871.	Rec'd seventeen & $\frac{75}{100}$	"	17 75
Dec. 24, 1871.	Rec'd forty six & $\frac{66}{100}$	"	46 66
May 13, 1872.	Rec'd forty eight & $\frac{33}{100}$	"	48 33
Nov. 25, 1872.	Rec'd forty-six & $\frac{67}{100}$	"	46 67
Dec. 12, 1873.	Rec'd one hundred & forty	"	140 00
Dec. 8, 1874.	Rec'd one hundred & forty	"	140 00
			918 78

84 $2,312.30. JANESVILLE, WIS., *April* 29, 1867.

Ninety days after date, for value received, I promise to pay to Andrew Palmer, sr., or order, at office of A. Palmer & Sons, Janesville, Wis., two thousand three hundred & twelve & $\frac{30}{100}$ dollars, with interest at the rate of seven per cent. per annum after date until paid.

ANDREW PALMER, JR.

(Across the face:) Judgment Nov. 13, 1875.

Know all men by these presnts, that whereas the subscriber is justly indebted to Andrew Palmer, sen., upon a certain promissory note bearing even date herewith, for the sum of $2,312.30 dollars, with interest at the rate of seven per cent. per annum, due ninety days after date and payable at Janesville, Wis:

Now, therefore, in consideration of the premises, I do hereby make, constitute, and appoint John Winans, or any attorney of any court of record, to be my true and lawful attorney, irrevocably for me and in my name, place, and stead, to appear in any court of record in term time, or

in vacation, in any of the States or Territories of the United States, at any time after the said note becomes due, to waive the service of process and confess a judgment in favor of the said Andrew Palmer, sen., or his assigns or assignees, upon the said note for the above sum, or for as much as shall appear to be due according to the tenor and effect of said note, and interest thereon to the day of the entry of said judgment, together with costs and attorney's fees; and also to file a cognovit
85 for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted upon the judgment entered by virtue hereof, nor any bill of equity filed to interfere in any manner with the operation of said judgment, & to release all errors that may intervene in the entering up said judgment or issuing the execution thereon. Hereby ratifying and confirming all that my said attorney may do by virtue hereof.

Witness my hand & seal this 29th day of April, A. D. 1867, at Janesville, Wis.

[SEAL.] ANDREW PALMER, JR.

In presence of—
CHAS. R. PALMER.
HATTIE M. PALMER.

Nov. 13, 1868, rec'd four hundred & seventy-nine $\frac{37}{100}$	dolls ...	$479 37
M'ch 27, 1871, rec'd seventeen & $\frac{74}{100}$	"	17 74
Dec. 24, 1871, rec'd forty-six & $\frac{66}{100}$	"	46 66
May 13, 1872, rec'd forty-eight & $\frac{33}{100}$	"	48 33
Nov. 25, 1872, rec'd forty-six & $\frac{66}{100}$	"	46 66
June 4, 1874, rec'd one hundred & forty-five	"	145 00
(In pencil).....	.....	813 76

86 District court 10th judicial district.

STATE OF MINNESOTA,
County of Freeborn:

ANDREW PALMER, SEN., PLAINTIFF,
against
ANDREW PALMER, JR., DEF.

The complaint of the plaintiff against the defendant in the above entitled action respectfully states and shows to the court:

1st. That heretofore, to wit, on the 29th day of April, A. D. 1867, said defendant made and delivered to the plaintiff his promissory note in writing of that date, and thereby, for value received, promised to pay said plaintiff or order the sum of $2,312\frac{35}{100}$ thirty days after date with interest at the rate of seven per cent. That said note is due and unpaid except the sum of $783.79 paid and indorsed thereon at divers times on and previous to June 4, 1873, and the further sum of $145.00, indorsed and paid thereon on the 3d day of June, 1875. That by said payments and indorsements, and by an instrument in writing dated and delivered October 24th, 1874, said defendant has often promised in consideration of the amount justly due the plaintiff thereon to pay the same. That there is now due and unpaid thereon of principal and interest the sum of $2,759.30, and the plaintiff is the owner thereof, and has demanded the same.

87 2d. As a further cause of action against said defendant, the

plaintiff shows to this court that on the 29th day of April, 1867, said defendant executed and delivered to said plaintiff his certain other promissory note in writing of said date, and thereby for value received promised to pay said plaintiff or order, sixty days after the date thereof, the sum of $2,312.30, with interest at the rate of seven per cent. per annum. That said note is due and unpaid except the sum of $778.78, paid and indorsed thereon at divers times, on and previous to the 10th day of December, 1873, and the further sum of $140 paid and indorsed thereon on the 8th day of December, 1874. That there is now due and unpaid thereon of principal and interest the sum of $2,769.53. That said plaintiff is the owner thereof, and has often demanded payment thereof before the commencement of this action. That by said payments and indorsements, and by an instrument in writing dated & delivered October, 1874, in consideration of the amount then justly due thereon from said defendant to said plaintiff, said defendant has often promised to pay the same.

3d. That as a further cause of action against said defendant, said plaintiff shows to this court that on the 29th day of April, A. D. 1867, said defendant executed and delivered his promissory note in writing of that date to said plaintiff, and thereby for value received promised to pay said plaintiff or order the sum of $2,312.30 ninety days after the date thereof, with interest at the rate of seven per cent. per an-
88 num. That said note is now due and wholly unpaid, except the sum of $783.76 paid & indorsed thereon at divers times on and previous to the 5th day of June, A. D. 1874. That the amount now due thereon is the sum of $2,904.35; that the plaintiff is still the owner thereof, and has demanded payment before the commencement of this action. That by said payments and indorsements, and by an instrument in writing dated Oct. 24, '74, in consideration of the amount then due from the defendant to the plaintiff thereon, said defendant has often promised to pay the pl'ff the amount due on said note. Wherefore said plaintiff demands judgment against said defendant for the sum of eight thousand four hundred & thirty-three dollars ($8,433), with interest on $6,936.90 from date at 7 per cent. per annum, and the costs of this action.

Dated Albert Lea, Oct. 23d, A. D. 1875.

LOVELY & PARKER,
Pl'ff's Att'ys, Albert Lea, Minn.

STATE OF MINNESOTA,
County of Freeborn, ss:

James H. Parker came before me personally, and being first duly sworn, doth say that he is one of the attorneys in the above entitled action; that the foregoing complaint is true to the best of his knowledge, information and belief, and that the reason why this verifi-
89 cation is not made by said plaintiff is that he is absent from the county of Freeborn, Minnesota, where resides this affiant, his attorney.

JAMES H. PARKER.

Subscribed and sworn to before me this 23' day of Oct., A. D. 1875.
[SEAL.] C. B. KELLAR,
Notary Public, Freeborn Co., Minn.

(Indorsed:) State of Minnesota, county of Freeborn, ss. District court, tenth judicial district. Andrew Palmer, sen., against Andrew Palmer, jr. Complaint. Filed Oct. 23, 1875. A. W. White, clerk. Lovely & Parker, pl'ff's attorneys. Albert Lea, Freeborn Co., Minnesota

District court, tenth judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss :

ANDREW PALMER, SENIOR, PLAINTIFF,
against
ANDREW PALMER, JR., DEFENDANT. } Summons.

The State of Minnesota to the above-named defendant:

90 You are hereby summoned and required to answer the complaint in this action, which has been filed in the office of the clerk of this court, in Albert Lea, in said county, and to serve a copy of your answer to the said complaint on the subscribers, at their office in Albert Lea, Freeborn County, Minn., within 20 days after the service of this summons upon you, exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, the plaintiff in this action will take judgment against you for the sum of $8,433, with interest on $6,936.90 from date at 7 per cent. per annum, and the costs of this action.

Dated Albert Lea, Oct. 23d, 1875.

LOVELY & PARKER,
Plaintiff's Attorneys, Albert Lea, Minn.

STATE OF MINNESOTA.
County of Freeborn, ss :

I, T. J. Sheehan, sheriff of Freeborn County, State of Minnesota, do hereby certify and return that at the town of Albert Lea, in said county, to wit, on the 23d day of October, A. D. 1875, I personally served the within summons on the within-named defendant, Andrew Palmer, jr., by delivering to and leaving in possession a true copy thereof.

Dated Oct. 23, 1875.

Fees, services, $1.00.

T. J. SHEEHAN,
Sheriff of Freeborn Co., Minn.

91 (Indorsed:) State of Minnesota, county of Freeborn, ss. District court, tenth judicial district. Andrew Palmer, sen., against Andrew Palmer, jr. Summons. Filed Oct. 23, 1875. A. W. White, clerk. Lovely & Parker, plaintiff's attorney'. Albert Lea, Freeborn Co., Minnesota.

EXHIBIT A.

14 sacks of shot, 25 lbs. each sack.
8 common New Hampshire horse-blankets.
80 American A grain sacks.
49 Star K grain sacks.
5 pairs ribbed shirts & drawers.
4 pairs of light merino drawers.
9 ribbed shirts.
7 ribbed drawers.
5 light merino shirts.
2 light merino drawers.
12 cotton undershirts.
12 cotton drawers.

2 cotton-flannel drawers.
2 cotton-flannel shirts.
1 ribbed undershirt.
18 pairs of buck gloves.
92 12 pairs of buckskin gauntlet gloves.
16 pairs of sheepskin " "
2 pairs of buck gloves.
14 pairs of sheepskin boys' gloves.
25 pairs of sheep mittens.
12 pairs of sheep mittens, boys'.
12 pairs of sheep mittens, boys'.
1 pair of men's buck mittens.
6 oil-cloth carpet-bags.
2 oil-cloth valises, 16-inch.
2 oil-cloth valises, 14 inches.
1 carpet-bag, 14 inches.
1 carpet-bag, 12 inches.
1 valise, 16 inches.
8 pairs of women's split-calf shoes.
9 pairs of women's p. g. shoes.
14 pairs of women's split-calf shoes.
17 pairs of women's buff-calf shoes.
16 pairs of women's buff-calf shoes.
26 pairs of miss' pebble-ground shoes.
13 pairs of women's calf shoes (damaged).
6 pairs of women's goat shoes.
10 pairs of miss' calf shoes.
15 pairs of women's calf shoes.
40 pairs of women's calf shoes.
26 pairs of Creole Congress gaiters.
20 pairs of split brogan shoes.
16 pairs of plough shoes.
93 4 pairs of women's carpet slippers.
4 pairs of women's Arctic slippers.
11 pairs of women's cloth slippers.
6 pairs of women's add slippers.
5 pairs of women's leather slippers.
9 pairs of men's leather slippers.
6 pairs of miss' pebble green shoes.
2 pairs of women's kid shoes.
5 pairs of women's cloth gaiters.
6 pairs of women's cloth foxed gaiters.
7 pairs of women's Arctic shoes.
3 pairs of women's foxed gaiters.
11 pairs of women's buttoned gaiters.
4 pairs of women's Arctic shoes.
6 pairs of women's goat shoes.
9 pairs of women's cloth gaiters.
3 pairs of women's cloth gaiters.
4 pairs of women's cloth gaiters.
8 pairs of children' kid shoes.
10 pairs of children's shoes, mixed.
16 pairs of paper sole gaiters.
1 pair of child's foxed shoes.
6 pairs of women's cloth shoes.
5 pairs of women's cloth shoes.

7 pairs of infants' shoes.
2 pairs of coquet slips.
3 pairs of men's cloth gaiters.
19 pairs of men's light kip boots.
94 4 pairs of men's light kip boots.
6 pairs of men's heavy kip boots.
3 pairs of men's heavy kip boots.
5 pairs of men's split cowhide boots.
11 pairs of men's foxed Arctic boots.
13 pairs of men's Arctic boots.
2 pairs of men's cloth boots.
2 pairs of men's French calf boots.
5 pairs of men's buffalo boots.
2 pairs of men's buffalo shoes.
2 pairs of men's sheep shoes.
2 pairs of boy's split leather boots.
3 pairs of boy's kip boots.
4 pairs of youth's leather boots.
3 pairs of children's leather boots.
5 pairs of boy's split calf boots.
3 pairs of men's moccasins.
20 pairs of men's plough boots.
15 pairs of men's rubbers.
15 pairs of women's rubbers.
2 pairs of women's rubbers.
15 pairs children's rubbers.
3 pairs of men's Ar'tic rubbers.
4 pairs of women's Ar'tic rubbers.
23 pairs of children's copper-toes shoes.
10 pairs of children's mixed shoes.
1 pair of calf shoes.
2 pairs of boy's shoes.
95 6 heavy ribbed shirts.
1 heavy ribbed drawers.
11 cotton undershirts.
11 cotton drawers.
1 cotton drawers.
1 women's chemise.
1 breakfast shawl.
3 scarfs.
2 over shirts.
8 heavy ribbed drawers.
5 summer undershirts.
3 misses' balmorals.
4½ lbs. of woolen yarn.
1½ lbs. of woolen yarn.
4 pairs of woolen hose.
21 pairs of Saker's socks.
24 pairs of No. 700 hose.
1 pair of men's British socks.
4 silk mixed suits, number 2151.
1 plush vest, number 2151.
3 Union cashmere boy' coats, No. 4208.
2 boys' diagonal suits, number 5258.
3 suits of brown cashmere, 4369.
1 pants and vest, 4371.

2 cashmere pants, number 5241.
4 pants, cashmere, number 3688.
6 cashmere pants, No. 5392.
4 suits cashmere, No. 5381.
96 2 suits of tweed, No. 958.
2 coats of tweed, No. 958.
1 suit of Canada gray, No. 4162.
1 pants and vest, Canada, No. 4162.
5 cashmere pants, No. 4205.
13 fine cashmere suits, mixed numbers.
5 fine cashmere coats, mixed numbers.
2 fine cashmere vests, number 4384.
2 diagonal suits, No. 5255.
8 diagonal suits, No. 4355 & 5243.
3 suits of silk mixed, No. 4053.
2 diagonal pants, vests, No. 5345.
5 satinet suits, No. 5448.
1 cashmere suit, No. 5292.
3 cashmere coats, No. 5292.
1 cashmere pants, No. 5292.
1 cashmere coat, No. 3897.
5 pants & vests, No. 4508.
4 doeskin coats & vests, No. 3970.
2 doeskin coats, No. 3970.
2 coats, doeskin, No. 5072.
2 doeskin vests, No. 5073.
5 doeskin pants, No. 2806.
6 doeskin pants, No. 5281.
4 satinet pants, No. 5252.
2 satinet pants, No. 5052.
1 satinet coat, No. 5501.
3 satinet vests, No. 5503.
97 4 satinet pants, No. 5502.
1 doeskin suit, No. 8817.
2 satinet coats, No. 3682.
2 doeskin pants, No. 8818.
1 doeskin vest, No. 8819.
3 trecot coats, not numbered.
1 broadcloth coat, No. 3880.
2 cottonade suits, No. 4430.
1 cottonade coat, No. 4430.
2 cottonade vests, No. 4430.
3 satinet suits, No. 3660.
1 satinet vest, No. 3660.
4 satinet coats, No. 3894.
1 satinet vest, No. 3894.
1 youth's cashmere suit, No. 5161.
1 youth's cashmere coat & vest, 5761.
1 chinchilla suit, No. 3591.
7 add vest', not numbered.
7 add coats, mixed, numbered.
1 satinet pants, not numbered.
5 P. jackets, coats, numbered 5582.
5 boys' satinet coats, No. 2126.
2 boys' silk mixed coats, No. 5373.
2 boys' satinet coats, no number.

4 boys' coats, number 5276.
6 boys' overcoats, No. 5230.
3 boys' overcoats, No. 36474.
5 boys' overcoats, No. 2185.
98 9 men's overcoats, No. 5253.
5 boys' overcoats. No. 2159.
1 men's overcoat, No. 5328.
4 men's overcoats, No. 3584.
3 men's overcoats. No. 5149.
1 overcoat, men, No. 3477.
1 men's overcoat, No. 5149.
1 Mackinaw overcoat, not numbered.
5 men's overcoats, No. 5185.
2 men's overcoats, No. 5325.
4 men's overcoats, No. 5784.
3 boy's overcoats, No. 2187.
1 boy's overcoat, No. 5253.
1 boy's overcoat, number 1093.
5 men's overcoats, No. 8369.
1 man's overcoat, No. 5159.
45½ yds. western flannel.
36½ yards western flannel.
53 yards Union flannel.
40 yards farmers' flannel.
4 63 by 126 shawls.
6 72 by 144 shawls.
2 72 by 144 shawls.
2 Lawrence shawls.
2 72 by 144 shawls.
2 72 by 144 shawls.
4 Union shawls.
2 63 by 126 shawls.
99 1 single shawl.
44 yards of Pacific jane.
56½ yards of Ionia jane.
36 yards of Badger jane.
36¾ yards of Badger jane.
44¾ yards of Burnside jane.
37 yards of Montella flannel.
39 yards of western flannel.
39¾ yards of Montella flannel.
48 yards of western cassimere.
39 yards of New York Mill flannel.
9½ yards of jane.
40 yards of Quaker Mills cottonade.
38 yards of farmers' Macinicks cottonade.
47 yards Bolton jane.
39 yards double Sweut cottonade.
33 yards New York Mills cottonade.
40 yards of rough & ready cottonade.
33 yards of Humbolt doeskin cloth.
45½ yards of Kentucky jane.
36 yards of Hoosten jane.
35 yards of Pacific jane.
11 yards of black mixed waterproof.
25 yards of black mixed waterproof.

12¾ yards gold mixed waterproof.
13½ yards of gray waterproof.
16 yds. of brown waterproof.
30 yds. of check waterproof.
100 19 yds. of black & white waterproof.
27 yards of green striped waterproof.
29 yards of brown sacking.
16 yards of blue waterproof.
15½ yards of Kentucky jane.
33 yards of Kentucky jane.
23½ yards of flannel.
31 yards of cottonade.
42½ yards of cottonade.
20½ yards of Kentucky jane.
44 yards of brown drilling.
30 yards of Chocho flannel.
5 yards of New York Mills cottonade.
3 bolts containing 74 yards, F. & M. cottonade.
15 yards Hillsdale jane.
25 yards of satinet.
19½ yards of cottonade.
34½ yards of cottonade.
44½ yards of cottonade.
9 yards of cottonade.
40 yards of farmers' flannel.
36 yards of Montello flannel.
52 yards of red flannel.
19½ yards of red flannel.
40 yards of No. 2, farmers' & miners' flannel.
41 yards No. 4, farmers' & miners' flannel.
48 yards red flannel.
2 bolts, 79 yards of Suez flannel.
101 53 yards of Park Mills check.
4½ yards of cassimere.
51 yards of Union flannel.
28 yards of double & twist cottonade.
22 yards of ladies' sacking.
18½ yards of check flannel.
6½ yards of cassimere.
18 yards of cassimere
20 yards of red flannel.
14 yards of cassimere.
7 yards of brown waterproof.
12½ yards of cottonade.
1⅛ yards of brocade cloth.
7½ yards of farmers' satin.
2 yards of broadcloth.
19 yards of union flannel.
5 yards of cottonade.
38½ yards of union flannel.
6 yards of mixed flannel.
6 yards of union doeskin.
19 yards of shady cottonade.
20 yards of Kentucky jane.
19½ yarns of tweed.
1½ yards of cassimere.

1½ yards of cassimere.
19½ yards of checked flannel.
21 yards of checked flannel.
40 yards of checked flannel.
102 39 yards of checked union flannel.
2 yards of cassimere.
32 yards of check shirting.
27 yards of farmers & miners' No. 2 flannel.
30½ yards of farmers & miners' No. 2 flannel.
43½ yards of Bark Mills plaid.
24½ yards of Everett stripe.
37 yards of Sakateris flannel.
24 yards of check shirting.
36 yards of linsey flannel.
44 yards of cotton flannel.
4 yards of Kentucky jane.
23 yards of cheviot shirting.
19 yards of cheviot shirting.
25 yards of cheviot shirting.
52 yards of cheviot shirting.
7½ yards of cotton flannel.
6 yards of cotton flannel.
34½ yards of linsey.
33 yards of ducking.
16½ yards of Everett check.
31½ yards of Everett check.
50 yards of cheviot shirting.
17 yards of cheviot shirting.
25 yards of cheviot shirting.
46 yards of colored cotton flannel.
46 yards of Uncorville stripes.
41 yards of Uncorville stripes.
103 27½ yards of American stripes.
37½ yards of Amoskeag stripe.
24 yards of Connecticut River ticking.
42½ yards of Connecticut River Co. ticking.
27 yards of Falls B. B. ticking.
37½ yards of Fall A. A. A. ticking.
48½ yards of Willow Brook ticking.
11½ yards of Willow Brook ticking.
43 yards of union check.
6½ yards of check flannel.
29 yards of Everett check.
53 yards of colored cotton flannel.
23 yards of blue shirting.
11½ yards of cotton flannel.
42 yards of cheviot.
41 yards of cheviot.
50 yards of union check.
37½ yards of Haymaker's denims.
10 yards of Connecticut denims.
42½ yards of Shetucket denims.
19 yards of Concord denims.
40 yards of Amoskeag denims.
36 yards of Sterling denims.
16 yards of Concord denims.

48 yards of Waregon denims.
52 yards of Wellington denims.
10 yards of Otis C. C. denims.
208 yards of Agawam sheeting.
104 190 yards of Atlantic A. sheeting.
190 yards of Cabot W. sheeting.
17 yards of Granvite sheeting.
98¾ yards of bleached sheeting.
102 yards of Pocahontas bleached sheeting.
60 yards of Fruit of the Loom sheeting.
50 yards of Lonsdale bleached sheeting.
28 yards of Hills bleached sheeting.
28 yards of Slateville bleached sheeting.
156 yards of Columbia gingham.
265 yards of Plunket gingham.
36 yards of Amoskeag drilling.
40 yards of Amoskeag drilling.
1,800 yards of Standard prints.
1,442 yards of side brand prints.
12 ladies' balmorals.
12 doz. silk buttons.
12 doz. silk buttons.
7 doz. pearl buttons.
8½ doz. drab buttons.
12 doz. drab buttons.
9½ doz. drab buttons.
5 doz. drab buttons.
3 doz. drab buttons.
1 doz. —— buttons.
8 doz. steel buttons.
1½ doz. steel buttons.
2 neckties.
105 10 neck-ties.
4 neck-ties.
15 neck-ties.
4 neck-ties.
1½ doz. children's gloves.
2 doz. children's gloves.
2½ doz. children's gloves.
15 pairs of ladies' gloves.
6 pairs of ladies' gloves.
9½ yards of ribbon.
5½ yards of ribbon.
4½ yards of ribbon.
4½ yards of ribbon.
3 yards of ribbon.
9½ yards of ribbon.
2 yards of ribbon.
3½ yards of belt ribbon.
12 pieces of ribbon remnant.
10 pieces of ribbon.
10 yards of velvet ribbon.
1 piece of velvet ribbon.
1 piece of velvet ribbon.
3 yards of ribbon.

6 yards of velvet ribbon.
5 yards of velvet ribbon.
1 piece of velvet ribbon.
1 piece of velvet ribbon.
1 piece of velvet ribbon.
106 1 piece of trimmings.
1 piece of trimmings.
5 linen collars.
2 linen collars.
8 ladies' linen collars.
4 pieces of rouche.
1 piece of velvet.
1 piece of velvet.
1 ladies' collar.
13 yards of bugle braid.
10 yards of silk fringe.
6 yards of silk fringe.
1 piece of fringe.
1 piece of fringe.
2 pieces of silk fringe.
1 piece of silk fringe.
8 yards of cotton edge trimming.
7 yards of binding braid.
2 black silk parasols.
2 miss silk parasols.
2 cotton parasols.
12 yards of black vail.
8 yards of green vail.
6 cotton hair nets.
15 cotton hair nets.
10 cotton hair nets.
1 silk hair net.
16 white cloak ornaments.
13 black cloak ornaments.
107 12 balls of cable cord.
30 skeins of linen floss.
2 silk handkerchiefs.
7 linen switches.
10 yards of cotton fringe.
33 yards of cotton poplin.
12 yards of brown velveteen.
13 yards of blue velveteen.
5¾ yards of brown velveteen.
11½ yards of purple velveteen.
6 yards of white wool delaine.
1 yard of white corduroy.
3½ yards of muslin.
8 yards of percales.
10 yards of Irish poplin.
4½ yards of Victoria lawn.
34 yards of muslin.
4½ yards of white cloaking.
5 yards of black velveteen.
10 yards of white alpaca.
1¾ yards of black veiling
5 black cotton lace shawls.

1 Paisley shawl.
8 doz. bunches cotton braids.
24 yards of cotton lace.
31 yards of cotton lace.
21 yards of cotton lace.
16 yards of cotton lace.
108 36 yards of cotton lace.
23 yards of cotton lace.
36 yards of cotton lace.
36 yards of cotton lace.
36 yards of cotton lace.
20 yards of cotton lace.
20 yards of cotton lace.
6 yards of cotton lace.
3 yards of ruffles.
10 yards of braid.
22 yards of lace
4 yards of cotton lace.
30 yards of cotton lace.
60 yards of Hamburg edging.
10 men's wool hats.
5 men's fur hats.
3 men's fur hats.
6 men's wool hats.
4 men's wool hats.
7 men's wool hats.
5 men's wool hats.
6 men's wool hats.
4 men's wool hats.
3 men's fur hats.
7 men's wool hats.
3 men's wool hats.
3 men's wool hats.
3 child's wool hats.
109 3 child's fur hats.
6 boys' wool hats.
1 men's fur hat.
1 men's fur hat, damaged.
5 men's wool hats.
5½ yards of grass cloth.
47 yards of grass cloth.
3½ yards of percale.
31 yards of percale.
21 yards of percale.
41 yards of percale.
16½ yards of percale.
7½ yards of bleached table linen.
10 yards of brown table linen.
25 yards of brown table linen.
6 yards of bleached table linen.
57 yards of percales.
18 yards of percales.
20 yards of percales.
33 yards of percales.
36 yards of plain red flannel.
23 yards of plain white flannel.

26 yards of plain red flannel.
25 yards of plain red flannel.
5 yards of white plain flannel.
31 yards of orange flannel.
5½ yards of opera flannel.
6½ yards of twilled flannel.
110 4 yards of orange flannel.
23 yards of opera flannel.
10½ yards of blue flannel.
19 yards of plain white flannel.
26 yards of plain white flannel.
25 yards of opera flannel.
26¾ yards of white flannel.
8 yards of black wool delaine.
12 yards of brilliant delaine.
6 yards of remnant dress goods.
37 yards of striped mohair.
26 yards of brown serge.
38 yards of green dress-goods.
31 yards of striped dress-goods.
5 yards of remnant dress-goods.
38 yards of wash poplin.
46 yards of wash poplin.
18½ yards of Everett cottonade.
22 yards of serge delaines.
5½ yards of dress-goods.
11 yards of serge dress-goods.
11 yards of dress-goods.
14 yards of damaged lawn.
22 yards of dress-goods.
8½ yards of damaged remnants.
3 yards of damaged remnants.
3 yards of delaines.
10 yards of dress-goods.
32 yards of dress-goods.
110 15 yards of dress-goods.
57 yards of plaid dress-goods.
5 yards of dress goods.
10 yards of dress-goods.
30 yards of delaine.
30 yards of wash poplin.
16 yards of striped linen.
5 yards of dress-goods.
44 yards of dress-goods, damaged.
37 yards of striped dress-goods.
24 yards of cambric.
12½ yards of wash poplin.
5 white cotton shirts.
2 white cotton shirts.
3 white cotton shirts.
6 colored cotton shirts.
1 colored cotton shirt.
1 colored cotton shirt.
1 colored cotton shirt.
14 men's summer caps.
2 men's straw hats.

1 men's undershirt.
10 nubias.
6 nubias.
12 nubias.
4 nubias.
4 nubias.
1 set of black Astrachan furs.
112 3 ladies' jackets.
1 ladies' jacket.
3 pairs of leggins.
8 men's overshirts.
2 men's overshirts.
3 men's overshirts.
4 men's overshirts.
4 balmeel skirts.
8 balmeel skirts.
8 underskirts.
1 breakfast shawl.
1 summer skirt.
19 white handkerchiefs, cotton.
21 white cotton handkerchiefs.
12 white linen handkerchiefs.
14 white linen handkerchiefs.
8 white linen handkerchiefs.
24 white cambric handkerchiefs.
1 white cotton handkerchief.
4 pieces of musquito bar.
5½ yards of white linen.
4½ yards of white linen.
22 yards of white linen.
2½ yards of figured linen.
4 yards of damaged toweling.
8 napkins, linen.
1 linen vest.
2 women's skirts.
113 1 shirt bosom.
2 bed-spreads, cotton.
1 bed-spread, cotton.
5 cotton bed-spreads.
2 breast protectors.
9 old hoop skirts.
13 steel corsets.
6 whale-bones.
25 balls of bagstrings.
1 lb. wrapping-twine.
13 curtain tassels.
4¾ lbs. of woolen yarn.
3 damaged nubias.
2 lb. candlewick.
18 doz. of lampwicks.
95 pounds of carpet warp.
47 pounds of No. 1 cotton-batting.
49 pounds of No. 2 cotton-batting.
20 pounds of No. 3 cotton-batting.
5 damaged hoods, woolen.
80 boxes of Franklin collars.

7 boxes of Oakwood collars.
5 boxes of Cabinet collars.
3 boxes of Mohegan collars.
3 boxes of Redemption collars.
3 boxes of nobby collars.
6 men's winter caps, plush.
1 1/2 doz. coat-wadding.
114 70 lbs. of cotton-yarn.
7 lbs. of cotton-yarn.
2 1/2 lbs. of cotton-twine.
215 yards of cambric.
2 summer suits of linen, men's.
5 linen vests, damaged.
3 linen pants, men's, damaged.
2 damaged nubias.
5 yards of curtain lace.
15 yards of curtain lace.
4 table cloths, oil cloth.
1 piece of table oil-cloth.
8 yards of table oil-cloth.
45 yards of satin drill.
15 yards of satin drill.
12 yards of satin drill.
48 yards of satin drill.
10 yards of satin drill.
24 yards of silicia.
2 yards of silicia.
4 yards of satin twill.
12 yards of silicia.
49 yards of royal brocade.
45 yards of royal brocade.
50 yards of royal brocade.
22 yards of nankeen.
14 yards of check dress-goods.
11 yards of French gingham.
115 41 yards of French gingham.
41 1/2 yards of French gingham.
13 yards of plaid dress-goods.
42 yards of plaid dress-goods.
29 yards of striped dress-goods.
40 1/2 yards of striped dress-goods.
46 yards of cotton dress-goods.
22 yards of plaid, cotton.
51 1/2 yards of royal brocade.
1 3/4 yards of merino.
17 yards of rep goods.
10 1/2 yards of rep goods.
30 yards of colored alpaca.
16 yards of black alpaca.
30 yards of black alpaca.
37 1/2 yards of black alpaca.
33 yards of black alpaca.
29 yards of black alpaca.
23 yards of green rep.
40 yards of colored alpaca.
33 1/2 yards of royal brocade.

110 yards of royal brocade, 3 pieces.
31 yards of brilliant delaine.
52 yards of brocade alpaca.
50 yards of surged dress-goods.
36 yards of surged dress-goods.
31½ yards of robe de laine.
19 yards of robe de laine.
116 22½ yards of wool de laine.
9 yards of gingham.
17 yards of gingham.
7 yards of damaged cambric.
24 yards of damaged grenadine.
30 yards of satin drill.
16 yards of toweling, crash.
11½ yards of crash-toweling.
22 yards of crash-toweling.
15½ yards of crash-toweling.
6½ yards of crash-toweling.
21½ yards of crash-toweling.
18¼ doz. colored silk spools of thread.
42 doz. spools of Clark's thread.
54 doz. spools of common thread.
8 bunches No. 29 braid.
1 doz. tape-rolls.
¼ gross coat-binds.
8 doz. mohair dress braid.
4½ lb. linen thread, common.
1 spool of silk twist.
½ G. G. agate buttons.
1 package No. 2 pins.
3 packages No. 3 pins.
3 packages No. 4 pins.
⅔ G. G. pants buttons.
½ gross pant buttons.
⅛ m. knitting-needles.
117 1 8/12 G. G. hooks & eyes.
1 11/12 plnd line hose.
10/12 sheepskin wallets.
10/12 doz. suspenders.
2 mouthorgans.
2 M. needles.
1⅔ doz. children hose.
½ doz. calf wallets.
2⅙ doz. children hose.
1 7/12 doz. children hose.
4½ doz. lead pencils.
9/12 doz. ladies' hose.
10/12 doz. ladies' hose.
½ doz. ladies' hose.
2 doz. ladies' hose.
5/12 doz. ladies' hose.
5/12 doz. ladies' hose.
1 doz. ladies' hose.
7/12 doz. misses' hose.
15 doz. ivory vest buttons.
2 10/12 doz. children's hose.

11 coat buttons.
7 doz. coat buttons.
12 doz. vest buttons.
8 doz. dress buttons.
$\frac{5}{12}$ doz. ladies' hose.
1 doz. ladies' hose.
2 doz. ladies' hose.
118 1 doz. ladies' hose.
1 doz. children's hose.
$\frac{1}{2}$ gross vest buttons.
$\frac{10}{12}$ doz. sheepskin wallets.
$\frac{9}{12}$ doz. memorandum-books.
$\frac{1}{6}$ doz. sheepskin wallets.
1 lb. of shoe thread.
2 doz. pen-holders.
$\frac{3}{12}$ doz. suspenders, men's.
$\frac{9}{12}$ doz. suspenders, men's.
$\frac{1}{2}$ doz. suspenders, men's.
$\frac{7}{12}$ doz. suspenders, men's.
$\frac{10}{12}$ doz. suspenders, boys'.
5 ladies' corsets.
2 pairs of gauntlets, ladies'.
$\frac{10}{12}$ doz. ladies' mittens.
$\frac{1}{2}$ doz. ladies' mittens.
12 lbs. of cotton knitting yarn.
$2\frac{1}{2}$ boxes of Germantown yarn.
3 pans of Rockingham ware.
2 pans of Rockingham ware.
$5\frac{1}{2}$ doz. of custard-dishes.
$4\frac{9}{12}$ doz. pie plates.
$2\frac{1}{4}$ doz. dinner-plates.
$2\frac{1}{6}$ doz. dinner plates.
$2\frac{5}{12}$ doz. breakfast plates.
$\frac{1}{2}$ doz. tea plates.
68 bowls, W. G.
119 24 bowls, W. G.
7 vegetable dishes:
6 lamp-chimneys.
3 gravy bowls.
7 gravy bowls.
12 nappers.
4 nappers.
7 nappers.
5 sets of plates, W. G.
$6\frac{1}{2}$ sets of plates.
$3\frac{1}{2}$ sets of plates.
4 washbowls & pitchers.
4 washbowls & pitchers.
13 large pitchers.
23 half-gallon pitchers.
10 quarter-gallon pitchers.
9 milk pitchers.
6 W. S. chambers.
3 earthen chambers.
4 colored chambers.
1 colored chamber.

8 colored chambers.
10 sugar bowls.
13 potato dishes.
5 soup tureens.
3 gravy pitchers.
3 butter dishes.
4 soap dishes.
120 6 soap slabs.
3 soap dishes.
8 pickle dishes.
12 sets of cups and saucers.
7 single cups.
2 cups, handled.
2 doz. glass tumblers.
2 cups.
7 sets of glassware.
3 sets of glassware.
10 spoon-holders.
2 glass butter dishes.
13 pepper cruets.
2 syrup pitchers.
3 syrup pitchers.
3 teapots.
2 large pitchers.
2 medium sized pitchers.
3 large pitchers.
3 medium pitchers.
32 yellow bowls.
5 yellow nappies.
6 yellow bakers.
5 earthen spittoons.
5 set of yellow pie-plates.
10 yellow bakers.
21 yellow milk pans.
11 nappies.
121 4 large bowls.
50 lbs. of No. 2 Bart. cotton.
50 lbs. of No. 3 cotton bats.
13 New Hampshire blankets.
1 trunk.
2 trunks.
1 valise.
5 $\frac{7}{12}$ doz. pails.
8 wash-tubs.
3 wooden churns.
4 wash-tubs.
1 barrel 245 lbs. sugar.
1 barrel 279 lbs. sugar.
1 barrel 235 lbs. sugar.
1 barrel 225 lbs. sugar.
1 barrel 236 lbs. sugar.
1 barrel 42 gal's C. oil.
1 barrel 165 pounds of rice.
1 barrel 120 pounds of sugar.
1 keg 75 lbs. of white fish.
1 sack 120 lbs. of coffee.

7 kits of white fish.
1 barrel 73 lbs. of candy.
1 barrel 80 lbs. of blackberries.
1 barrel 242 lbs. of prunes.
1 barrel 110 lbs. of apples.
1 box 60 lbs. saleratus.
1 box of clay pipes.
122 1 case 4 doz. axle grease.
50 lbs. smoking tobacco.
39 lbs. of coffee A sugar.
33 lbs. of lump sugar.
25 lbs. of lump sugar.
40 lbs. of brown sugar.
30 lbs. of rice.
32 lbs. of coffee.
115 lbs. of coffee.
26 lbs. of young hyson tea.
45 lbs. of gunpowder tea.
30½ lbs. of young hyson tea.
27 lbs. of young hyson tea.
24 lbs. of Japan tea.
23 lbs. of Japan tea.
3 pounds of pepper.
6½ pounds of allspice.
5 pounds of pepper.
4½ pounds of cinnamon.
12½ pounds of smoking tobacco.
25 pounds of shorts tobacco.
62 boxes of matches.
19 boxes of stove polish.
23 boxes of stove polish.
40 pounds of soap.
96 pounds of saleratus.
15 pounds of saleratus.
2 doz. boxes of cinnamon.
123 2½ doz. boxes of pepper.
60 boxes essence of coffee.
28 boxes of lye.
2 doz. boxes of blueing.
5½ thousand gun caps.
3 boxes of gun wads.
8 pounds of extract of logwood.
24 pounds of silver gloss starch.
6¼ pounds of hops.
8 cans of peaches.
6 cans of strawberries.
13 cans of cherries.
16 cans of blackberries.
12 pounds of mustard.
8 pounds of corn starch.
2 pounds of baking powder.
39 pounds of plug tobacco.
15 pounds of plug tobacco.
3 pounds of candy.
14 pounds of plug tobacco.
50 pounds of shot.

37 pounds of candles.
35 pounds of shot.
6 pounds of baking powder.
9 pounds of powder.
3 pounds of silver gloss starch.
180 pounds of saleratus.
2 boxes, 12 pounds of starch.
124 $\frac{3}{4}$ box of clothes pins.
9$\frac{1}{2}$ pounds of corn starch.
9$\frac{1}{2}$ doz. glass tumblers.
8 doz. shirt buttons.
9$\frac{1}{2}$ doz. shirt buttons.
2$\frac{1}{2}$ doz. shirt buttons.
4$\frac{1}{2}$ doz. shirt buttons.
2 doz. pearl buttons.
3 doz. ivory buttons.
20 doz. glass buttons.
6 doz. brass buttons.
2$\frac{1}{2}$ G. of dress buttons.
1$\frac{1}{12}$ doz. circle combs.
$\frac{1}{2}$ doz. circle combs.
$\frac{11}{12}$ doz. circle combs.
1 doz. circle combs.
$\frac{7}{12}$ doz. circle combs.
5$\frac{1}{2}$ doz. lead pencils.
4$\frac{1}{2}$ doz. fine combs.
$\frac{7}{12}$ fine combs.
3 doz. rubber-combs.
$\frac{1}{2}$ doz. rubber-combs.
1$\frac{10}{12}$ doz. course combs.
8 mouth-organs.
$\frac{10}{12}$ doz. pocket combs.
1 gro. diaper pins.
2 common watches.
1 doz. gross needles.
125 1 doz. " "
3 pair of dog-skin gloves.
3 cards of common jewelry.
2 boxes of shirt studs.
12 common brass rings.
1 pocket-book.
1 ladies' collar.
1 memorandum-book.
1$\frac{1}{2}$ yards of ribbon.
3 pieces of silk ribbon.
2 yards of belt-ribbon.
14 broken pieces of ribbons.
51 gallons of stone-ware.
11 bed-cords.
80 pounds of rope.
2 zinc trunks.
3 paper-covered trunks.
2 buffalo robes.
1 iron safe.
1 five-foot show-case.
1 twelve-foot show-case.

1 stone-coal stove.
1 brown two-year-old horse colt.
1 book called ledger, with accounts.
1 book called journal.
1 book called cash-book.
1 book called bill-book.
1 note, O. Johnson, $10.80; endorsed $10.00, leaves 80 cents.
126 1 note, Robert Swenson, $12.00; endorsed $8.00, leaves 4.00.
1 note, Ole Thoreson, $2.25, leaves 2.25.
1 note, H. Gullbrandson, $5.00, leaves 5.00.
1 note, Edward Anderson, $18.00, leaves 18.00.
1 note, Lars. Christopherson, $15.00; endorsed $10.00, leaves 5.00.
1 note, James Duffer, $13.55, leaves 13.55.
1 note, H. Mortenson, $5.00, leaves 5.00.
1 note of Jacob Jacobson, $5.80, leaves 5.80.
1 note, John Lusted, $8.63, leaves 8.63.
Cash in drawer of safe, $12.25.

District court, 10th judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

ANDREW PALMER, SENIOR, PL'FF,
against
ANDREW PALMER, JR., DEF'T.

STATE OF MINNESOTA,
County of Freeborn, ss:

The State of Minnesota to the sheriff of Freeborn County, greeting:

127 Whereas in the above entitled action an application has been made to the proper officer for a writ of attachment against the property of Andrew Palmer, jr., defendant, therein setting forth by affidavit that a cause of action exists against such defendant, and specifying the amount of the claim and the ground thereof; and that the defendant is about to dispose of his property with intent to delay and defraud his creditors, and the bond in such cases required by law has been duly filed, and such writ has been duly allowed and directed to issue:

Therefore you are hereby commanded and required to attach and safely keep all the property of said Andrew Palmer, jr., within your county not exempt from execution, or so much thereof as may be sufficient to satisfy the said plaintiff's demand, which amounts to the sum of eight thousand four hundred & thirty-three ($8,433) dollars as appears by the complaint in said action, together with costs and expenses, & that you proceed herein in the manner required of you by law.

Witness the honorable Sherman Page, judge of district court
128 aforesaid, at Albert Lea, Freeborn County, Minnesota, this 6th day of Nov., A. D. 1875.

[SEAL.] A. W. WHITE, *Clerk.*

STATE OF MINNESOTA,
County of Freeborn, ss:

I, T. J. Sheehan, sheriff of Freeborn County, do hereby certify and

return that, by virtue of the within writ, I did on the 8th day of November, A. D. 1875, attach all the property described in the annexed inventory, and marked Exhibit A, and is composed of thirty-five half written pages, and is hereby made a part of my return.

The property described in said inventory consists of packages, wares, and merchandize, books, monies, notes, and accounts, as the property belonging to the within named defendant, Andrew Palmer, jr.

Said levy was made subject to one certain other attachment, wherein Samuel P. Farrington and John Schmahl were plaintiffs, and Andrew Palmer, jr., defendant.

And I further certify that I did on the 15th day of November, A. D. 1875, at Albert Lea, in said county and State, serve a true & correct copy of the within writ of attachment with a true copy of the inventory hereto annexed on the within named defendant, Andrew Palmer,
129 jr., by handing the same to him and leaving the same in his possession.

Dated this 15th day of November, A. D. 1875.

T. J. SHEEHAN,
Sheriff of Freeborn Co., Minn.

Fees: Attachment, $1.00; 5 days, taking inventory, at $3.00, 15.00; 4 days, clerk's hire, Nelson, 6.00; 4 days clerk's hire, Knudson, 4.00; inventory and copy, 14.00—$40.00.

(Indorsed:) State of Minnesota, county of Freeborn. District court, 10th judicial district. Andrew Palmer, sr., vs. Andrew Palmer, jr. Writ of attachment issued Nov. 6, 1875. A. W. White, clerk. Returned Nov. 15, 1875. A. W. White, clerk. Lovely & Parker, pl'ff's att'ys.

130 EXHIBIT A.

Inventory of personal property levied on this 10th day of November, A. D. 1875, in case of Samuel P. Farrington and John Schmahl against Andrew Palmer, jr.

14 sacks of salt, 25 lbs. each sack.
8 common New Hampshire horse-blankets.
80 American A grain sacks.
49 Star K grain sacks.
5 pairs of ribbed shirts and drawers.
4 pairs of light merino drawers.
9 ribbed shirts.
7 ribbed drawers.
5 light merino shirts.
2 light merino drawers.
12 cotton undershirts.
12 cotton drawers.
2 cotton-flannel drawers.
2 cotton-flannel shirts.
1 ribbed undershirt.
1 ribbed shirt and drawers.
18 pairs of buck gloves.
12 pairs of buckskin gauntlet gloves.
16 pairs of sheepskin " "
2 pr. of buck gloves.

14 pr. sheepskin boys' gloves.
131 25 pairs of sheep mittens.
12 pairs of sheep mittens, boys'.
12 pairs of sheep mittens.
1 pair of men's buck mittens.
6 oilcloth carpet bags.
2 oilcloth valises, 16 inch.
2 oilcloth valises, 14 inch.
1 carpet-bag, 14 inch.
1 carpet-bag, 12 inch.
1 valise, 16 inch.
8 pairs of women's split calf shoes.
9 pairs of women's peg shoes.
14 pairs of women's split calf shoes.
17 pairs of women's buff calf shoes.
16 pairs of women's buff calf shoes.
26 pairs of miss' pebble shoes.
12 pairs of women's calf shoes, damaged.
6 pairs of miss' goat shoes.
10 pairs of miss' calf shoes.
40 pairs of women's calf shoes.
26 pairs of creole congress gaiters.
20 pairs of split brogan shoes.
16 pairs of plow shoes.
4 pairs of women's carpet slippers.
4 pairs of women's arctic slippers.
11 pairs of women's cloth slippers.
6 pairs of women's add slippers.
5 pairs of women's leather slippers.
132 9 pairs of men's leather slippers.
6 pairs of miss' pebble green shoes.
2 pairs of women's kid shoes.
5 pairs of women's cloth gaiters.
6 pairs of women's cloth foxed gaiters.
7 pairs of women's arctic shoes.
3 pairs of women's foxed gaiters.
11 pairs of women's buttoned gaiters.
4 pairs of women's arctic shoes.
6 pairs of women's goat shoes.
9 pairs of women's cloth gaiters.
3 pairs of women's cloth gaiters.
4 pairs of women's cloth gaiters.
8 pairs of children's kid shoes.
10 pairs of children's shoes, mixed.
paper-sole gaiters.
1 pair of child' foxed shoes.
6 pairs of women's cloth shoes.
5 pairs of women's cloth shoes.
7 pairs of infants' shoes.
2 pairs of coquet slips.
3 pairs of men's cloth gaiters.
19 pairs of men's light kip boots.
4 pairs of men's light kip boots.
6 pairs of men's heavy kip boots.
3 pairs of men's heavy kip boots.
5 pairs of men's split cowhide boots.

11 pairs of men's foxed arctic boots.
133 13 pairs of men's artic boots.
2 pairs of men's cloth boots.
2 pairs of men's French calf boots.
5 pairs of men's buffalo boots.
2 pairs of men's buffalo shoes.
2 pairs of men's sheep shoes.
2 pairs of boys' split-leather boots.
3 pairs of boys' kip-boots.
4 pairs of youths' leather boots.
3 pairs of children's leather boots.
5 pairs of boys' split-calf boots.
3 pairs of men's moccasins.
20 pairs of men's plough boots.
15 pairs of men's rubbers.
15 pairs of women's rubbers.
2 pairs of women's rubbers.
15 pairs of children's rubbers.
3 pairs of men's arctic rubbers.
4 pairs of women's arctic rubbers.
23 pairs of children's copper-toed shoes.
10 pairs of children's mixed shoes.
1 pair of children' calf shoes.
2 pairs of boys' shoes.
6 heavy ribbed shirts.
1 heavy ribbed drawers.
11 cotton undershirts.
11 cotton drawers.
1 cotton drawers.
134 1 womens' chemise.
1 breakfast shawl.
3 scarfs.
2 overshirts.
8 heavy ribbed drawers.
5 summer undershirts.
3 Miss'. balmorals.
4½ lbs. of woolen yarn.
1½ lbs. woolen yarn.
4 pairs of woolen hose.
21 pairs of Saker's socks.
24 pairs of No. 700 hose.
1 pair of mens' British socks.
4 silk-mixed suits, number 2151.
1 pants and vest, number 2151.
3 Union cassimere boys' coats, number 4208.
2 boys' diagonal suits, number 5258.
3 suits of brown cassimere, 4369.
1 pants and vest, number 4371.
2 cassimere pants, number 5241.
4 pants, cassimere, number 3688.
6 cassimere pants, No. 5392.
4 suits, cassimere, No. 5381.
2 suits of tweed, No. 958.
2 coats of tweed, No. 958.
1 suit of Canada gray, No. 4162.
1 pants and vest, Canada gray, No. 4162.

3 suits mixed, 4053.
135 5 cassimere pants, No. 4205.
13 fine cassimere suits, mixed numbers.
5 fine cassimere coats, mixed numbers.
2 fine cassimere vests, number 4384.
2 diagonal suits, No. 5255.
8 diagonal suits, No. 5345 & 5243.
2 diagonal pants, yests, No. 4345.
5 satinet suits, No. 5448.
1 cassimere suit, No. 5292.
3 cassimere coats, No. 5292.
1 cassimere pants, No. 5292.
1 cassimere coat, No. 3897.
5 pants and vest, No. 4508.
4 doeskins coats & vests, No. 3970.
2 doeskin coats, No. 3970.
2 coats, doeskin, No. 5072.
2 doeskin vests, No. 1573.
5 doeskin pants, No. 2806.
6 doeskin pants, No. 5281.
4 satinet pants, No. 5252.
2 satinet pants, No. 5052.
1 satinet coat, No. 5501.
3 satinet vests, No. 5503.
4 satinet pants, No. 5502.
1 doeskin suit, No. 8817.
2 satinet coats, No. 3682.
2 doeskin pants, No. 8818.
1 doeskin vest, No. 8819.
136 3 Trecot coats not numbered.
1 broadcloth coat, No. 3880.
2 cottonade suits, No. 4430.
1 cottonade coat, No. 4430.
2 cottonade vests, No. 4430.
3 satinet suits, No. 3660.
1 satinet vest, No. 3660.
4 satinet coats, No. 3894.
1 satinet vest, No. 3894.
1 youth's cassimere suit, No. 5161.
1 youth's cassimere coat & vest, No. 5161.
1 chinchilla suit, No. 3591.
7 odd vests, not numbered.
7 odd coats, mixed numbered.
1 satinet pants, not numbered.
5 P. jackets & coats, number 5582.
5 boys' satinet coats, No. 2126.
2 boys' silk mixed coats, No. 5373.
2 boys' satinet coats, no numbers.
4 boys' coats, number 5276.
6 boys' overcoats, No. 5230.
3 boys' overcoats No. 36474.
5 boys' overcoats, No. 2185.
1 boys' overcoat, No. 5253.
9 mens' overcoats, No. 5159.
5 boys' overcoats, No. 2159.
1 men's overcoat, No. 5358.

4 men's overcoats, No. 3584.
137 3 men's overcoats, No. 5149.
1 overcoat, men, No. 3479.
1 men's overcoat, No. 5149.
1 Mackinaw overcoat, not numbered.
5 men's overcoats, No. 5185.
2 men's overcoats, No. 5325.
4 men's overcoats, No. 5784.
3 boys' overcoats, No. 2187.
1 boys' overcoat, No. 1093.
5 men's overcoats, No. 8569.
1 men's overcoat, No. 5159.
45½ yards Western flannel.
36½ yards Western flannel.
53 yards of Union flannel.
40 yards of Farmers' flannel.
4 63 by 126 shawls.
6 72 by 144 shawls.
2 72 by 144 shawls.
2 Lawrence shawls.
2 72 by 144 shawls.
2 72 by 144 shawls.
4 Union shawls.
2 63 by 126 shawls.
1 single shawl.
44 yards of Pacific jane.
56½ yards of Jopia jane.
36 yards of Badger jane.
36¾ yards of Badger jane.
138 44¾ yards of Burnside jane.
37 yards of Montello flannel.
39 yards of Western flannel.
39¾ yards of Montello flannel.
48 yards of Western cassimere.
39 yards of New York Mill cassimere.
9½ yards of jane.
40 yards Quaker Mills cottonade.
38 yards Farmers' Mechanics' cottonade.
47 yards Bolton jane.
39 yards Double & Twist cottonade.
33 yards New York Mills cottonade.
40 yards of Rough & Ready cottonade.
33 yards of Humboldt doeskin cloth.
45½ yards of Kentucky jane.
36 yards of Hoosier jane.
35 yards of Pacific jane.
11 yards of black mixed waterproof.
25 yards of black mixed waterproof.
12¾ yards gold mixed waterproof.
13½ yards of gray waterproof.
16 yards of brown waterproof.
30 yards of check waterproof.
19 yards of black & white waterproof.
27 yards of green striped waterproof.
29 yards of brown sacking.
16 yards of blue waterproof.

15½ yards of Kentucky jane.
139 33 yards of Kentucky jane.
23½ yards of flannel.
31 yards of cottonade.
42½ yards of cottonade.
20½ yards of Kentucky jane.
44 yards of brown drilling.
30 yards of Cochco flannel.
5 yards of New York Mills cottonade.
3 bolts containing 74 yards F. & M. cottonade.
15 yards Hillsdale jane.
25 yards of satinet.
19½ yards of jane.
34½ yards of cottonade.
44½ yards of cottonade.
9 yards of cottonade.
40 yards of Farmers' flannel.
36 yards of Montello flannel.
52 yards of red flannel.
19½ yards of red flannel.
40 yards of Farmers' & Miners' flannel.
41 yards of No. 4 Farmers' & Miners' flannel.
48 yards of red flannel.
2 bolts 79 yards of Suez flannel.
53 yards Park Mills check.
4½ yards of cassimere.
51 yards of Union flannel.
28 yards of double & twist cottonade.
22 yards of ladies' sackings.
140 18½ yards of checked flannel.
6½ yards of cassimere.
18 yards of cassimere.
20 yards of red flannel.
14 yards of cassimere.
7 yards of brown waterproof.
12½ yards of cottonade.
1⅛ yards of broadcloth.
7½ yards of Farmers' satinet.
2 yards of broadcloth.
19 yards of Union flannel.
5 yards of cottonade.
38½ yards of Union flannel.
6 yards of mixed flannel.
6 yards of Union doeskin.
19 yards of shady cottonade.
20 yards of Kentucky jane.
19½ yards of tweed.
1½ yards of cassimere.
1½ yards of cassimere.
19½ yards of checked flannel.
21 yards of checked flannel.
40 yards of checked flannel.
39 yards of checked Union flannel.
2 yards of cassimere.
32 yards of checked shirting.
27 yards of Farmers' & Miners' No. 2 flannel.

30½ yards of Farmers' & Miners' No. 2 flannels.
141 43⅓ yards of Bark Mills plaid.
24½ yards of Everett stripe.
37 yards of Satsaker flannel.
24 yards of checked shirting.
36 yards of linsey flannel.
44 yards of cotton flannel.
4 yards of Kentucky jane.
23 yards of cheviot shirting.
19 yards of cheviot shirting.
25 yards of cheviot shirting.
52 yards of cheviot shirting.
7½ yards of cotton flannel.
6 yards of cotton flannel.
34½ yards of linsey.
33 yards of ducking.
16½ yards Everett check.
31½ yards of Everett check.
50 yards of cheviot shirting.
17 yards of cheviot shirting.
25 yards of cheviot shirting.
46 yards of colored cotton flannel.
46 yards of Uncasville stripe.
41 yards of Uncasville stripe.
27½ yards of American stripe.
37½ yards of Amoskeag stripe.
24 yards of Connecticut River ticking.
42½ yards of Connecticut River C ticking.
27 yards of Falls BB ticking.
142 37½ yards of Falls AAA ticking.
48½ yards of Willow Brook ticking.
11½ yards of Willow Brook ticking.
43 yards of Union check.
6½ yards of checked flannel.
29 yards of Everett check.
53 yards of colored cotton flannel.
23 yards of blue shirting.
11½ yards of cotton flannel.
42 yards of cheviot.
41 yards of cheviot.
50 yards of Union check.
37½ yards of Haymaker denim.
10 yards of Connecticut denim.
42½ yards of Shetucket denim.
19 yards of Concord denim.
40 yards of Amoskeag denim.
36 yards of Sterling denim.
16 yards of Concord denim.
48 yards of Waregan denim.
52 yards of Wellington denim.
10 yards of Otis CC denim.
208 yards of Agawam sheeting.
190 yards of Atlantic A sheeting.
190 yards of Cabot W sheeting.
17 yards of Granite sheeting.
98¾ yards of bleached sheeting.

102 yards of Pocahontas bleached sheeting.
143 60 yards Fruit of the Loom sheeting.
50 yards of Lonsdale bleached sheeting.
28 yards of Hill's bleached sheeting.
28 yards of Stateville bleached sheeting.
156 yards of Columbia gingham.
265 yards of Pluncet gingham.
36 yards of Amoskeag drilling.
40 yards of Amoskeag drilling.
1,800 yards of standard print.
1,442 yards of side brand prints.
12 ladies' balmorals.
12 doz. silk buttons.
12 doz. silk buttons.
7 doz. pearl buttons.
8½ doz. drab buttons.
12 doz. drab buttons.
9½ doz. drab buttons.
5 doz. drab buttons.
3 doz. drab buttons.
1 doz. buttons.
8 doz. steel buttons.
11½ doz steel buttons.
2 neckties.
10 neckties.
4 neckties.
15 neckties.
4 neckties.
1½ doz. children's gloves.
144 2 doz. children' gloves.
2½ doz. children' gloves.
15 pairs of ladies' gloves.
6 pairs of ladies' gloves.
9½ yards of ribbon.
5½ yards of ribbon.
4½ yards of ribbon.
4½ yards of ribbon.
3 yards of ribbon.
9½ yards of ribbon.
2 yards of ribbon.
3½ yards of belt ribbon.
12 pieces of ribbon remnants.
10 pieces of ribbon.
10 yards of velvet ribbon.
1 piece of velvet ribbon.
3 yards of ribbon.
6 yards of velvet ribbon.
5 yards of velvet ribbon.
1 piece of velvet ribbon.
1 piece of velvet ribbon.
1 piece of velvet ribbon.
1 piece of trimming.
1 piece of trimming.
5 linen collars.
2 linen collars.
8 ladies' linen collars.

4 pieces of ruche.
145 1 piece of velvet.
1 piece of velvet.
1 ladies' collar.
13 yards of bugle braid.
10 yards of silk fringe.
6 yards of silk fringe.
1 piece of fringe.
2 pieces of silk fringe.
1 piece of silk fringe.
8 yards of cotton edge trimming.
7 yards of trimming braid.
2 black silk parasols.
2 miss' silk parasols.
2 cotton parasols.
12 yards of black veil.
8 yards of green veil.
6 cotton hair nets.
15 cotton hair nets.
10 cotton hair nets.
1 silk hair net.
16 white cloak ornaments.
13 black cloak ornaments.
12 balls of cable cord.
30 skeins of linen floss.
2 silk handkerchiefs.
7 linen switches.
10 yards of cotton fringe.
146 33 yards of cotton poplin.
12 yards of brown velveteen.
13 yards of blue velveteen.
5¾ yards of brown velveteen.
11½ yards of purple velveteen.
6 yards of white wool delaine.
1 yard of white corduroy.
3½ yards of muslin.
8 yards of percales
10 yards of Irish poplin.
4½ yards of Victoria lawn.
34 yards of muslin.
4½ yards of white cloaking.
5 yards of black velveteen.
10 yards of white alpaca.
1¾ yards of black velveting.
5 black cotton lace shawls.
1 Paisley shawl.
8 doz. bunches of cotton braid.
24 yards of cotton lace.
31 yards of cotton lace.
21 yards of cotton lace.
16 yards of cotton lace.
36 yards of cotton lace.
23 yards of cotton lace.
36 yards of cotton lace.
36 yards of cotton lace.
36 yards of cotton lace.

147 20 yards of cotton lace.
20 yards of cotton lace.
6 yards of cotton lace.
3 yards of ruffle.
10 yards of braid.
22 yards of lace.
4 yards of cotton lace.
30 yards of cotton lace.
60 yards of Hamburg edging.
10 men's wool hats.
5 men's fur hats.
3 men's fur hats.
6 men's wool hats.
4 men's wool hats.
7 men's wool hats.
5 men's wool hats.
6 men's wool hats.
4 men's wool hats.
3 men's fur hats.
7 men's wool hats.
3 men's wool hats.
3 men's wool hats.
3 child's wool hats.
3 child's fur hats.
6 boys' wool hats.
1 men's fur hat.
1 men's fur hat, damaged.
5 men's wool hats.
148 5½ yards of grass cloth.
47 yards of grass cloth.
3½ yards of percales.
31 yards of percales.
21 yards of percales.
41 yards of percales.
16½ yards of percales.
7½ yards of bleached table linen.
10 yards of brown table linen.
25 yards of brown table linen.
6 yards of bleached table linen.
57 yards of percales.
18 yards of percales.
20 yards of percales.
33 yards of percales.
36 yards of plain red flannel.
23 yards of plain white flannel.
26 yards of plain red flannel.
25 yards of plain red flannel.
5 yards of white plain flannel.
31 yards of orange flannel.
5½ yards of opera flannel.
6½ yards of twilled flannel.
4 yards of orange flannel.
23 yards of opera flannel.
10½ yards of blue flannel.
19 yards of plain white flannel.
26 yards of plain white flannel.

149 25 yards of opera flannel.
26¾ yards of white flannel.
8 yards of black wool delaine.
12 yards of brilliant delaine.
6 yards of remnant dress goods.
37 yards of striped mohair.
26 yards of brown serge.
38 yards of green dress goods.
31 yards of striped dress goods.
5 yards of remnant dress goods.
38 yards of washed poplin.
46 yards of washed poplin.
18½ yards of Everett cottonade.
22 yards of serge delaine.
5½ yards of dress goods.
11 yards of serge dress goods.
11 yards of dress goods.
14 yards of damaged lawn.
22 yards of dress goods.
8½ yards of damaged remnants.
3 yards of delaine.
10 yards of dress goods.
32 yards of dress goods.
13 yards of dress goods.
57 yards of plaid dress goods.
5 yards of dress goods.
10 yards of dress goods.
30 yards delaine.
150 30 yards of washed poplin.
16 yards of striped linen.
5 yards of dress goods.
44 yards of dress goods, damaged.
37 yards of striped dress goods.
24 yards of cambric.
12½ yards of washed poplin.
24 yards of Union linen.
5 white cotton shirts.
2 white cotton shirts.
3 white cotton shirts.
6 colored cotton shirts.
1 colored cotton shirt.
1 colored cotton shirts.
1 colored cotton shirt.
14 men's summer caps.
2 men's straw hats.
1 men's undershirts.
10 nubias.
6 nubias.
12 nubias.
4 nubias.
4 nubias.
1 set of black Astrachan furs.
3 ladies' jackets.
1 ladies' jacket.
3 pair of leggins.
8 men's overshirts.

151 2 men's overshirts.
3 men's overshirts.
4 men's overshirts.
4 balmoral skirts.
8 underskirts.
8 balmoral skirts.
1 breakfast shawl.
1 summer skirt.
19 white handkerchiefs, cotton.
21 white cotton handkerchiefs.
12 white linen handkerchiefs.
14 white linen handkerchiefs.
8 white linen handkerchiefs.
24 white cambric handkerchiefs.
1 white cotton handkerchief.
4 pieces of mosquito bars.
5½ yards of white linen.
4½ yards of white linen.
22 yards of white linen.
2½ yards of figured linen.
4 yards of damaged towelings.
8 napkins, linen.
1 linen vest.
2 women's skirts.
1 shirt bosom.
2 bedspreads, cotton.
1 bedspread, cotton.
5 cotton bedspreads.
152 2 breast protectors.
9 old hoop skirts.
13 steels, corset.
6 whalebones.
25 balls of bag strings.
1 lb. roping twine.
13 curtain tassels.
4¾ lb. of woolen yarn.
3 damaged nubias.
2 lb. of candle-wicks.
18 doz. of lamp-wicks, mixed.
95 pounds of carpet warp.
47 pounds of No. 1 cotton batting.
49 pounds of No. 2 cotton batting.
20 pounds of No. 3 cotton batting.
5 damaged hoods, woolen.
80 boxes of Franklin collars.
7 boxes of Oakwood collars.
5 boxes of Cabinet collars.
3 boxes of Mohegan collars.
3 boxes of Redemption collars.
3 boxes of nobby collars.
6 men's winter caps, plush.
1½ doz. coat-wadding.
70 lb. cotton yarn.
7 pounds cotton yarn.
2½ pounds of woolen twine.

215 yards of cambric.
153 2 summer suits of linen (men's.)
5 summer vests, damaged.
2 damaged nubias.
5 yards of curtain lace.
15 yards of curtain lace.
4 oil table-cloths.
3 linen pants (men's), damaged.
1 piece of table oil-cloth.
8 yards of table oil-cloth.
45 yards of satin drill.
15 yards of satin drill.
12 yards of satin drill.
48 yards of satin drill.
10 yards of satin drill.
24 yards of silicia.
2 yards of silicia.
4 yards of satin twill.
12 yards of silicia.
49 yards of royal brocade.
45 yards of royal brocade.
50 yards of royal brocade.
22 yards of nankeen.
14 yards of check dress goods.
11 yards of French gingham.
41 yards of French gingham.
41½ yards of French gingham.
13 yards of plaid dress goods.
42 yards of plaid dress goods.
29 yards of striped dress goods.
154 40½ yards of striped dress goods.
46 yards of cotton dress goods.
22 yards of plaid cotton.
51½ yards of royal brocade.
1¾ yards of merino.
17 yards of rep goods.
10½ yards of rep goods.
30 yards of colored alpaca.
16 yards of black alpaca.
30 yards of black alpaca.
37½ yards of black alpaca.
33 yards of black alpaca.
29 yards of black alpaca.
23 yards of green rep.
40 yards of colored alpaca.
33½ yards of royal brocade.
110 yards of royal brocade, 3 pieces.
31 yards of brilliant delaine.
52 yards of brocade alpaca.
50 yards of serge dress goods.
36 yards of serge dress goods.
31½ yards of robe delaine.
19 yards of robe delaine.
22½ yards of woolen delaine.
9 yards of gingham.

17 yards of gingham.
7 yards of damaged cambric.
24 yards of damaged grenadine.
155 30 yards of satin drill.
16 yards of toweling crash.
11½ yards of crash toweling.
22 yards of crash toweling.
15½ yards of crash toweling.
6½ yards of crash toweling.
21½ yards of crash toweling.
18¼ doz. colored silk spool thread.
42 doz. spools of Clark thread.
54 doz. spools of common thread.
8 bunches braid.
1 doz. tape rolls.
¼ gross coat binds.
8 doz. mohair dress braids.
4½ lb. linen thread (common.)
1 spool of silk twist.
½ G. G. agate buttons.
1 package No. 2 pins.
3 packages No. 3 pins.
3 packages No. 4 pins.
⅔ G. G. pant buttons.
½ gro. pant buckles.
⅛ M. knitting needles.
1 5/12 G. G. hooks & eyes.
1 1/12 flud line hose.
10/12 sheep-skin wallets.
10/12 doz. suspenders.
2 mouth organs.
156 2 M. needles.
1⅓ doz. children's hose.
½ doz. calf wallets.
2 1/6 doz. children's hose.
1 7/12 doz. children's hose.
4½ doz. lead pencils.
9/12 doz. ladies' hose.
10/12 doz. ladies' hose.
½ doz. ladies' hose.
2 doz. ladies' hose.
5/12 doz. ladies' hose.
1 doz. ladies' hose.
7/12 doz. miss' hose.
15 doz. ivory vest buttons.
2 10/12 doz. children's hose.
11 doz. coat buttons.
7 doz. coat buttons.
12 doz. vest buttons.
8 doz. dress buttons.
5/12 doz. ladies' hose.
1 doz. ladies' hose.
2 doz. ladies' hose.
1 doz. ladies' hose.
1 doz. children's hose.
½ gross vest buttons.

$\frac{10}{12}$ doz. sheep-skin wallets.
$\frac{9}{12}$ doz. memorandum books.
$\frac{1}{6}$ doz. sheep wallets.
157 1 lb. of shoe-thread.
2 doz. pen-holders.
$\frac{8}{12}$ doz. suspenders, men's.
$\frac{9}{12}$ doz. suspenders, men's.
$\frac{1}{2}$ doz. suspenders, men's.
$\frac{7}{12}$ doz. suspenders, men's.
$\frac{10}{12}$ doz. suspenders, boys'.
5 ladies' corsets.
2 pairs of gauntlets, ladies'.
$\frac{10}{12}$ ladies' mittens.
$\frac{1}{2}$ doz. ladies' mits.
12 lbs. of cotton knitting yarn.
$2\frac{1}{2}$ boxes of Germantown yarn.
3 pans of Rockingham ware.
2 pans of Rockingham ware.
$2\frac{1}{2}$ doz. of custard dishes.
$4\frac{9}{12}$ doz. of pie plates.
$2\frac{1}{4}$ doz. dinner plates.
$2\frac{1}{6}$ doz. dinner plates.
$2\frac{5}{12}$ doz. breakfast plates.
$1\frac{1}{2}$ doz. tea plates.
68 bowls, W. G.
24 bowls, W. G.
7 vegetable dishes.
6 lamp chimnies.
3 gravy bowls.
7 gravy bowls.
12 nappers.
158 4 nappers.
7 nappers.
5 sets of plates, W. G.
$6\frac{1}{2}$ sets of plates.
$3\frac{1}{2}$ sets of plates.
4 wash-bowls & pitchers.
4 wash-bowls & pitchers.
13 large pitchers.
23 half-gallon pitchers.
10 quarter-gallon pitchers.
9 milk pitchers.
6 W. G. chambers.
3 earthen chambers.
4 colored chambers.
1 colored chamber.
8 colored chambers.
10 sugar-bowls.
13 potato dishes.
5 soup tureens.
3 gravy pitchers.
3 butter dishes.
4 soap dishes.
6 soap dishes.
3 soap dishes.
8 pickle dishes.

12 sets of cups & saucers.
7 single cups.
2 cups handled.
159 2 doz. glass tumblers.
2 cups.
7 sets of glassware.
3 sets of glassware.
10 spoon-holders.
2 glass butter-dishes.
13 pepper cruets.
2 syrup pitchers.
3 syrup pitchers.
3 tea-pots.
2 large pitchers.
2 medium-sized pitchers.
3 large pitchers.
3 medium pitchers.
32 yellow bowls.
5 yellow nappies.
6 yellow bakers.
5 earthen spittoons.
5 sets of yellow pie plates.
10 yellow bakers.
21 yellow milk pans.
11 nappies.
4 large bowls.
50 lb. of No. 2 bat cotton.
50 lb. of No. 3 cotton bats.
13 New Hampshire blankets.
1 trunk.
2 trunks.
160 1 valise.
$5\frac{1}{2}$ doz. pails.
8 wash-tubs.
3 wooden churns.
4 wash-tubs.
1 barrel, 245 lbs., of sugar.
1 barrel, 279 lbs., of sugar.
1 barrel, 235 lbs., of sugar.
1 barrel, 225 lbs., of sugar.
1 barrel, 42 gallons, of c. oil.
1 barrel, 165 pounds, of rice.
1 barrel, 120 lb., of sugar.
1 keg, 75 lb., of white fish.
1 sack, 120 lb., of coffee.
7 kits of white fish.
1 barrel, 73 lb., of candy.
1 barrel, 90 lb., of blackberries.
1 barrel, 242 lbs., of prunes.
1 barrel, 110 lbs., of apples.
1 barrel, 60 lbs., of saleratus.
1 box of clay pipes.
1 case, 4 doz., axle grease.
50 lbs. of smoking tobacco.
89 lbs. of coffee A sugar.
33 lbs. of loaf sugar.

25 lbs. of loaf sugar.
40 lbs. of brown sugar.
36 lbs. of rice.
161 32 lbs. of coffee.
115 lbs. of coffee.
26 lbs. of Young Hyson tea.
45 lbs. of Gunpowder tea.
1 barrel, 236 lbs., of sugar.
30½ lbs. Young Hyson tea.
27 pounds of Young Hyson tea.
24 lb. of Japan tea.
23 lb. of Japan tea.
3 lb. of pepper.
6½ pounds of allspice.
5 pounds of pepper.
4½ pounds of cinnamon.
12½ pounds of smoking tobacco.
25 pounds of shorts tobacco.
62 boxes of matches.
19 boxes of stove blacking.
23 boxes of shoe polish.
49 pounds of soap.
96 pounds of saleratus.
15 pounds of saleratus.
2 doz. boxes cinnamon.
2½ doz. boxes pepper.
60 boxes of essence of coffee.
28 boxes of lye.
2 doz. boxes of bluing.
5½ thousand gun caps.
3 boxes of gun wads.
162 8 lb. of extract of logwood.
24 lbs. of silver gloss starch.
6¼ pounds of hops.
8 cans of peaches.
6 cans of strawberries.
13 cans of cherries.
16 cans of blackberries.
12 pounds of mustard.
8 pounds of corn starch.
2 pounds of baking powder.
39 pounds of plug tobacco.
3 pounds of candy.
14 pounds of plug tobacco.
50 pounds of shot.
37 pounds of candles.
35 pounds of shot.
6 pounds of baking powder.
9 pounds of powder.
3 pounds of silver gloss starch.
180 pounds of saleratus.
2 boxes, 12 pounds, of starch.
¾ box of clothes pins.
9½ pounds of cream tartar.
9½ doz. glass tumblers.
8 doz. shirt buttons.

9 doz. shirt buttons.
2½ doz. shirt buttons.
4½ doz. shirt buttons.
163 2 doz. pearl buttons.
3 doz. ivory buttons.
20 doz. glass buttons.
6 doz. brass buttons.
2½ gross of dress buttons.
1½ doz. circle combs.
½ doz. circle combs.
1 1/12 doz. circle combs.
1 doz. circle combs.
7/12 doz. circle combs.
5½ doz. lead pencils.
4½ doz. fine combs.
½ doz. fine combs.
3 doz. rubber combs.
7/12 doz. rubber combs.
1 10/12 doz. coarse combs.
8 mouth organs.
10/12 doz. pocket combs.
1 gross diaper pins.
2 common watches.
1 doz. gross needles.
4 doz. " "
3 pair of dogskin gloves.
3 cords of common jewelry
2 boxes of shirt studs.
12 common brass rings.
1 pocket book.
1 ladies' collar.
164 1½ yards of ribbon.
1 memorandum book.
3 pieces of silk ribbons.
2 yards of belt ribbons.
14 broken pieces of ribbon.
51 gallons of stoneware.
11 bed cords.
80 pounds of rope.
2 zinc trunks.
3 paper-covered trunks.
2 buffalo robes.
1 iron safe.
1 five-foot show-case.
1 twelve-foot show-case.
1 store coal stove.
1 brown two-years-old horse colt.
1 book called "ledger," with accounts.
1 book called "journal."
1 book called "cash book."
1 book called "bill book."
1 note, O. Johnson, $10.80, endorsed $10.00, leaves 80 cents.
1 note, Robert Swenson, $12.00, endorsed $8.00, leaves $4.00.
1 note, Ole Thorson, $2.25, leaves 2.25.
1 note, H. Gulbrandsen, $5.00, leaves 5.00.
1 note, Edward Anderson, $18.08, leaves 18.08.

1 note, Lars Christopherson, $15.00, endorsed $10.00, leaves 5.00.
1 note, James Duffen, $13.55, leaves 13.55.
1 note, H. Martenson, $5.00, leaves 5.00.
165 1 note, Jacob Jacobson, $5.80, leaves $5.80.
1 note, John Lusted, $8.63, leaves $8.63.
Cash in drawer and safe, $12.25.

District court, tenth judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss :

The State of Minnesota to the sheriff of Freeborn County, greeting:

Whereas judgment was rendered on the 13 day of November, in the year 1875, in an action in the district court of the State of Minnesota for the tenth judicial district, in the county of Freeborn, between Andrew Palmer, sr., plaintiff, and Andrew Palmer, jr., defendant, in favor of said plaintiff and against said defendant, for the sum of eight thousand four hundred eighty-three ($8,433.00) dollars, as appears by the judgment-roll filed in the office of the clerk of said court;

And whereas said judgment was docketed in your county on the day of , in the year 187--, and the sum of dollars is now actually due thereon:

Therefore you are commanded to satisfy the said judgment out of the personal property of the said judgment debtor, not exempt from execution within your county, or if sufficient personal property cannot
166 be found, then out of the real property not exempt from execution in your county belonging to said judgment debtor on the day when said judgment was so docketed in your county, or at any time thereafter, in whose hands soever the same may be in, and return this execution within sixty days after its receipt by you to the clerk of the court for Freeborn County, 10th judicial district aforesaid.

Witness the honorable Sherman Page, judge of the district court aforesaid, at Albert Lea, Minn., this 13 day of Nov., in the year of our Lord 1875.

[SEAL.] A. W. WHITE,
Clerk.

Attorney for.

Received this execution this 13th day of November, A. D. 1875, at 5 o'clock and fifteen minutes p. m.

T. J. SHEEHAN,
Sheriff.

STATE OF MINNESOTA,
County of Freeborn, ss :

By virtue of the within execution & process I have levied on and taken into my possession, as the property of the within named
167 defendant, Andrew Palmer, jr., all the packages, wares, and merchandize, books, moneys, notes, and accounts, embraced, mentioned, or described in the schedule thereof hereto attached, which said schedule is marked Exhibit A, & is composed of thirty-five written pages, & is hereby made a part hereof as my return. I further certify & return that I did on the 15th of November, 1875, personally serve a

true copy of the within execution on the within named defendant, Andrew Palmer, jr., with a full inventory of the goods levied on and described in the inventory attached to said of execution, the same being held by virtue of a writ of attachment by me served Nov. 8, A. D. 1875.

Dated Nov. 15th, A. D. 1875.

T. J. SHEEHAN,
Sheriff Freeborn County, Minn.

The property described in the annexed inventory was advertised for sale Nov. 20, 187 , to be sold on the 1st day of December, A. D. 1875, writ of injunction served to stop sale November 24, A. , until further order of the U. S. court, by reason of a petition being filed in bankruptcy Nov. 22d, 1 , against Andrew Palmer, jr.

I further certify and return that by virtue of a stipulation by and between Andrew Palmer, sr., & Andrew Palmer, jr., the within named par-
168 siet and the petitioning creditors of Andrew Palmer, jr., in the bankrupt proceedings in the U. S. district court for the district of Minnesota, & the assignee, J. N. Rogers, in said matter, by their respective attorneys, and the order founded thereon, I turned over and delivered all of the within goods, chattels comprised in the within inventory to J. N. Rogers, assignee as aforesaid in said matter.

January 20, 1876.

T. J. SHEEHAN,
Sheriff Freeborn Co.

(Indorsed:) Execution. State of Minnesota, county of Freeborn, district court tenth judicial district. Andrew Palmer, sr., plaintiff, against Andrew Palmer, jr., defendant. Judgment in favor of plaintiff for $8,483.00. The sheriff of Freeborn County will collect $8,483.00 with interest on $8,483.00 from Nov. 13, A. D. 1875, besides his fees hereon. Lovely & Parker, att'y for pl'ff.

169 In district court.

STATE OF MINNESOTA,
County of Freeborn, ss:

ANDREW PALMER, SEN.,
vs.
ANDREW PALMER, JR.

STATE OF MINNESOTA,
County of Freeborn, ss:

I, A. W. White, clerk of the district court for said county, do hereby certify that I have carefully compared the annexed copy of judgment-roll (including copy summons and complaint, copies of three notes, each signed by Andrew Palmer, jr., affidavit of no answer, affidavit of disbursements and judgment), also bond and affidavit and order in attachment and writ of attachment & return thereon; also execution and return thereon, including the inventories on writ of attachment and execution, all in the above-entitled action, and that the annexed are true and correct copies of said originals, as the same remain of record & on file in my office.

Witness my hand and the seal of said court, at Albert Lea, this 8th day of November, A. D. 1876.

[SEAL OF DISTRICT COURT OF FREEBORN COUNTY, MIN.] A. W. WHITE, *Clerk of said Court.*

170 (Indorsed:) Exhibit A. H. E. Mann, examiner.

171, 172 (Indorsed:) United States circuit court, district of Minnesota. Exhibit A.

173 STATE OF MINNESOTA,
County of Freeborn, ss:

I, A. W. White, clerk of the district court for the 10th judicial district and county aforesaid, do hereby certify that I have compared the foregoing with the original judgment-roll in the case of Samuel P. Farrington and John Schmahl vs. Andrew Palmer, jr., remaining on file in my office, and that the same is a true and correct copy of the original, which are hereto attached and marked as Exhibits A to H, inclusive.

In testimony whereof I have hereunto set my hand and the seal of said court, at Albert Lea, this 21st day of December, A. D. 1875.

[SEAL OF DIST. C'T.] A. W. WHITE, *Clerk.*

Clerk's fees, $9.50.

174 District court, tenth judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

SAMUEL P. FARRINGTON & JOHN SCHMAHL, plaintiffs, *against* ANDREW PALMER, JR., DEFENDANT. } No. .

The summons in this action having been personally served on the above-named defendant, Andrew Palmer, jr., on the 25th day of October, 1875, and more than twenty days having since elapsed and no copy of an answer or demurrer to the complaint on file having been served upon plaintiff's attorneys as required by the summons, and this being an action on contract for the recovery of money only; now, on motion of Messrs. Lovely & Parker, said attorneys, it is hereby adjudged that the plaintiff herein recover of said defendant, Andrew Palmer, jr., the sum of six hundred and three & $\frac{65}{100}$ dollars damages, with twenty-nine & $\frac{75}{100}$ dollars costs and disbursements; in all amounting to $633.40.

Signed this 10th day of November, A. D. 1875.

[DIST. COURT SEAL.] A. W. WHITE, *Clerk.*

175

Amount claimed in summons	$595 77	
Amount interest claimed in summons	7 88	
		$603 65
Costs and disbursements:		
Statute costs	$10 00	
No. 5 affidavits	$1 25	
Sheriff's fees	10 00	
Court com. fees	2 00	
Clerk's fees	6 50	
		$29 75
		$633 40

(Indorsed:) District court, Freeborn County. Sam'l P. Farrington & John Schmahl, plaintiff, against Andrew Palmer, jr., defendant. Judgment-roll. Filed on the 10th day of November, A. D. 1875. A. W. White, clerk. Ex. G.

District court, tenth judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

SAMUEL P. FARRINGTON & JOHN SCHMAHL, plaintiffs,
against
ANDREW PALMER, JR., DEFENDANT.

Costs and disbursements:

Statute costs	$10 00	
5 affidavits & ack	1 25	
Sheriff's fees	10 00	
Clerk's fees to be added	6 50	
Court commission fees	2 00	
		$29 75
176 Amount claimed in summons:		
Principal	$595 77	
Interest	7 88	
		$603 65
Total		$633 40

STATE OF MINNESOTA,
County of Freeborn, ss:

James H. Parker came personally before me, and having been first duly sworn, he doth depose and say that he is one of the attorney' of said plaintiffs in the above-entitled cause; that the above bill and items of costs and disbursements therein are just and correct, and have been necessarily incurred therein.

JAMES H. PARKER.

Subscribed and sworn to before me on this 10th day of Nov., A. D. 1875.

[SEAL DIST. COURT.] A. W. WHITE,
Clerk Dist. Court.

I hereby certify that I have this day taxed the costs and disbursements of the plaintiffs in the foregoing-entitled action and assessed the same at $29.75.

Dated this 10th day of November, A. D. 1875.

A. W. WHITE, *Clerk.*

177 (Indorsed:) State of Minnesota, County of Freeborn, ss. District court, tenth judicial district. Sam'l P. Farrington & John Schmahl, against Andrew Palmer, jr. Affidavit of disbursements. Filed on the 10th day of Nov., 1875. A. W. White, clerk. Ex. F.

District court, 10 judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

SAMUEL P. FARRINGTON & JOHN SCHMAHL, pl'ffs,
against
ANDREW PALMER, JR., DEFENDANT.

STATE OF MINNESOTA,
County of Freeborn, ss:

The State of Minnesota to the sheriff of Freeborn county, greeting:

Whereas, in the above-entitled action, an application has been made to the proper officer for a writ of attachment against the property of Andrew Palmer, jr., dispose of his property with intent to delay
178 and defraud his creditors defendant therein, setting forth by affidavit that a cause of action exists against such defendant, and specifying the amount of the claims and the ground thereof; and that the defendant is about to dispose of his property with intent to delay & defraud his creditors, and the bond in such cases required by law has been duly filed, and such writ has been duly allowed and directed to issue:

Therefore you are hereby commanded and required to attach and safely keep all the property of said Andrew Palmer, jr., within your county, not exempt from execution, or so much thereof as may be sufficient to satisfy the said plaintiffs' demand, which amounts to the sum of five hundred ninety-five & $\frac{77}{100}$ d'll's, & interest since Sep'r 2d, 1875, as appears by the complaint in said action, together with costs and expenses, and that you proceed herein in the manner required of you by law.

Witness the honorable Sherman Page, judge of the district court aforesaid, at Albert Lea, Freeborn County, Minnesota, this 6th day of Nov., A. D. 1875.

{SEAL DIST. COURT, FREEBORN CO., MINN.}

A. W. WHITE,
Clerk.

179 STATE OF MINNESOTA,
County of Freeborn, ss:

I, T. J. Sheehan, sheriff of Freeborn, do hereby certify and return that by virtue of the within writ I did on the 8th day of November, 1875, attach all the property described in the annexed inventory, and marked Exhibit A, and is composed of thirty-five half-written pages, and is hereby made a part of my return.

The property described in said inventory consists of packages, wares and merchandize, books, moneys, notes, and accounts, as the property belonging to the within-named defendant, Andrew Palmer, jr.

And I further certify that I did on the 15th day of November, A. D. 1875, serve a true and correct copy of the within writ of attachment, with a true copy of the inventory hereto annexed, on the within-named defendant, Andrew Palmer, jr., by handing the same to him and leaving with him personally at the village of Albert Lea, Freeborn County, Minnesota.

Dated this 15th day of November, 1875.

T. J. SHEEHAN,
Sheriff Freeborn County, Minnesota.

Fees: Attachment, 1.00; copy of inventory, 6.00; charge and care of goods one day, 3.00—$10.00.

180 (Indorsed:) State of Minnesota, county of Freeborn, district court, 10 judicial district. Farrington & Schmahl against Andrew Palmer, jr. Writ of attachment. Issued Nov. 6, 1875. A. W. White, clerk. Returned Nov. 15, 1875. A. W. White, clerk. Ex. E.

STATE OF MINNESOTA,
County of Freeborn, ss:

SAMUEL P. FARRINGTON & JOHN SCHMAHL, plaintiffs,
against
ANDREW PALMER, JR., DEFENDANT.

STATE OF MINNESOTA,
County of Freeborn, ss:

James H. Parker came personally before me, and, having been first duly sworn, he doth depose and say that he is one of the attorneys for the plaintiffs in the above-entitled action; that the summons in said action was personally served on the defendant therein on the 20th
181 day of October, 1875, and that no answer or demurrer, or copy of either, has been received by the plaintiffs' attorney in this cause, and prays judgment according to law.

JAMES H. PARKER.

Subscribed and sworn to before me this 10th day of Nov., A. D. 1875.
A. W. WHITE,
Justice of the Peace.

(Indorsed:) Court of Freeborn County. Samuel P. Farrington & John Schmahl against Andrew Palmer, jr. Affidavit of no answer. Filed Nov. 10, 1875. A. W. White, clerk. Ex. D.

District court, 10th judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

SAMUEL P. FARRINGTON & JOHN SCHMAHL, plaintiffs,
against
ANDREW PALMER, JR., DEFENDANT.

182 STATE OF MINNESOTA,
County of Freeborn, ss:

James H. Parker, being first duly sworn, doth depose and say that he is one of the attorneys for plaintiffs in the above-entitled action, which is brought for the recovery of money, and that a summons has been issued in said action. That a cause of action exists against the defendant and in favor of said plaintiff; that the amount of the plaintiffs' claim in said action is five hundred ninety-five & $\frac{77}{100}$ dollars & interest from Sep'r 2, 1875, and the ground thereof is as follows, that is to say, on or about the 2d day of August, 1875, the pl'ffs sold & delivered to the def't goods, wares, & merchandize of the value of $595.77, which sum defendant promised to pay in thirty days, and the same is due and wholly unpaid; and that said defendant is about to dispose of his property with intent to delay & defraud his creditors, and prays that a writ

of attachment may be allowed and issued against the property of said defendant according to the statute in such case made and provided; and deponent further says that no previous application for such
183 writ or for an order therefor has been made in said action; and further says not.

JAMES H. PARKER.

Subscribed and sworn to before me on this 5 day of Nov., A. D. 1875.

C. B. KELLAR,
Notary Public, Freeborn Co., Minn.

(Indorsed:) District court, 10 judicial district, county of Freeborn. Samuel P. Farrington & John Schmahl against Andrew Palmer. Affidavit for attachment.

To the clerk of said court:

On filing the within affidavit and a bond approved by me in the within-entitled cause let a writ of attachment issue as within prayed.

Dated Nov. 5, 1875.

[SEAL.]

B. H. CARTER,
Court Com's'r.

Filed Nov. 5, A. D. 1875.

A. W. WHITE,
Clerk of said Court.

Ex. C.

184 *Bond for attachment.*

District court, 10 judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

SAMUEL P. FARRINGTON & JOHN SCHMAHL, plaintiffs,
against
ANDREW PALMER, JR., DEFENDANT.

Know all men by these presents that Samuel P. Farrington & John Schmahl, the above-named plaintiffs, by Lovely & Parker, their att'ys, as principals, J. H. Parker & John A. Lovely as sureties, are held and firmly bound unto Andrew Palmer, jr., defendant in the above-entitled action, in the sum of two hundred & fifty dollars, lawful money of the United States, to be paid unto the said Andrew Palmer, jr., his heirs, executors, administrators, or assigns, for which payment, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this 5 day of November, A. D. 1875.

The condition of this obligation is such that whereas the above-
185 named plaintiff has duly applied for a writ of attachment against the property of said defendant in this action, according to the statute in such case provided:

Now, therefore, if the said defendant recovers judgment, if the plaintiff shall pay all costs that may be awarded to the defendant and all damages which he may sustain by reason of the attachment, not exceeding the penalty of this bond, then this obligation shall be void, otherwise of force.

In testimony whereof we have hereunto set our hands and seals on this 5th day of November, 1875.

SAMUEL P. FARRINGTON, [SEAL.]
JOHN SCHMAHL, [SEAL.]
By LOVELY & PARKER, *Att'ys.*
J. H. PARKER. [SEAL.]
JOHN A. LOVELY. [SEAL.]

Signed, sealed, and delivered in presence of—

STATE OF MINNESOTA,
County of Freeborn, ss:

Be it known that on this 5th day of November, A. D. 1875, came before me personally Sam'l P. Farrington & John Schmahl, by Lovely & Parker, their att'ys, and J. H. Parker, & to me well known to be the same persons who executed the foregoing bond, and each severally acknowledged the same to be his own free act and deed.

[SEAL.] C. B. KELLAR,
Notary Public, Freeborn Co., Minn.

186 STATE OF MINNESOTA,
County of Freeborn, ss:

James H. Parker & upon oath doth say, each for himself, that he is one of the sureties above named; that he is a resident and freeholder of and in the State of Minnesota, and worth the amount of two hundred & fifty dollars, specified in the foregoing bond, above his debts and liabilities, and exclusive of his property which is exempt from execution.

JAS. H. PARKER.
JOHN A. LOVELY.

Subscribed and sworn to before me on this 5 day of Nov., A. D. 1875.

[SEAL.] C. B. KELLAR,
Notary Public, Freeborn Co., Minn.

(Indorsed:) District court, county of Freeborn. Samuel P. Farrington & John Schmahl vs. Andrew Palmer, jr. Bond for attachment.

I hereby approve the within bond and the sureties thereon.
Dated Nov. 5, A. D. 1875.

[SEAL.] B. H. CARTER,
Court Com'rs.

Filed Nov. 5, 1875.

A. W. WHITE, *Clerk.*

LOVELY & PARKER,
Plaintiffs' Attorneys.

Ex. B.

187 STATE OF MINNESOTA,
County of Freeborn, ss:

John A. Lovely came before me personally, and being first duly sworn, doth say that he is one of the attorneys in the above-entitled action; that the foregoing complaint is true to the best of his knowledge, information and belief, and that the reason why this verification is not made by said plaintiffs is that they are absent from the county of Freeborn, Minnesota, where resides this affiant, their attorney.

JOHN A. LOVELY.

Subscribed and sworn to before me this 20 day of Oct., A. D. 1875.
[SEAL.] J. H. PARKER,
Notary Public, Freeborn Co., Minn.

District court, Freeborn County.

SAMUEL P. FARRINGTON & JOHN SCHMAHL,
pl'ffs,
ag'st
ANDREW PALMER, JR., DEF'T.

188 And now comes the above-named plaintiffs, and complaining in civil against the above-named defendant, for cause thereof says:

1st. That heretofore, to wit, on the 2d day of August, A. D. 1875, the said plaintiffs were and ever since then have been copartners, doing business at Chicago, Illinois, under the firm name and style of Farrington & Schmahl.

2d. That on the day last aforesaid the above-named plaintiffs, under said firm name & style, sold & delivered to the above-named defendant at his request goods, wares, & merchandise of the value of five hundred and ninety-five & $\frac{77}{100}$ dollars (595.77), which said sum, by the terms of said sale, became due in thirty days therefrom.

3d. That said goods, wares, & merchandise so sold & delivered were reasonably worth said sum of five hundred & ninety-five $\frac{77}{100}$ dollars, which said sum said defendant agreed to pay therefor.

4. That no part of said sum has ever been paid, but the whole and every part thereof now remains due and unpaid; wherefore plaintiffs ask judgment that they have & recover of said defendant the sum of five hundred and ninety-five $\frac{77}{100}$ dollars, with interest thereon from the 2nd day of September, A. D. 1875, & for the costs of this action.

LOVELY & PARKER,
Pl'ffs' Att'ys.

189 *Summons.*

District court, tenth judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

SAMUEL P. FARRINGTON & JOHN SCHMAHL,
plaintiffs,
against
ANDREW PALMER, JR., DEFENDANT.

The State of Minnesota to the above-named defendant:

You are hereby summoned and required to answer the complaint in this action, a copy of which is herewith served on you, and to serve a copy of your answer to the said complaint on the subscribers, at their office in Albert Lea, Freeborn County, Minnesota, within 20 days after the service of this summons upon you, exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, the plaintiffs in this action will take judgment against you for the sum of five hundred and ninety-five & $\frac{77}{100}$ dollars, with interest thereon from Sept. 2d, 1875, and for costs.

Dated Oct. 20th, A. D. 1875.

LOVELY & PARKER,
Plaintiffs' Attorneys, Albert Lea, Minn.

190–193 I admit due & proper service of the within summons & complaint in the within action this 20th day of October, A. D. 1875.

ANDREW PALMER, JR.,
Defendant.

(Indorsed:) State of Minnesota, County of Freeborn, ss. District court, tenth judicial district. Farrington & Schmahl, plff., against Andrew Palmer, def'd't. Summons & complaint. Filed Nov. 5, 1875. A. W. White, clerk. Lovely & Parker, plaintiffs' attorneys. Ex. A.

Exhibit B.

H. E. MANN, *Ex'r.*

194 (Indorsed:) United States circuit court, district of Minnesota.

195 *Summons.*

District court, tenth judicial district.

STATE OF MINNESOTA,
County of Freeborn, ss:

CHARLES M. HENDERSON, WILBUR S. HENDERSON, & Edward Burke, plaintiffs,
against
ANDREW PALMER, SENIOR, ANDREW PALMER, jr., and Asa W. White, as clerk of the district court in and for Freeborn County, Minnesota, defendants.

The State of Minnesota to the above-named defendant:

You, and each of you, are hereby summoned and required to answer the complaint in this action, a copy of which is herewith served on you, and to serve a copy of your answer to the said complaint on the subscribers, at their office in Albert Lea, Freeborn County, Minnesota, within 20 days after the service of this summons upon you, exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, the plaintiff in this action will apply to the court for the relief demanded therein.

Dated November 12, A. D. 1875.

MARTIN HOWARD,
With STACY & TYRER,
Plaintiffs' Attorneys, Albert Lea, Minn.

196 In district court.

STATE OF MINNESOTA,
County of Freeborn, ss:

CHARLES M. HENDERSON, WILBUR S. HENDERSON, & Edmund Burke, plaintiffs,
against
ANDREW PALMER, SEN., ANDREW PALMER, Jr., & Asa W. White, clerk of said court for said county, defendants.

Said plaintiffs, for their complaint, herein allege:

First. That they are copartners doing business at Chicago, in the State of Illinois, under the firm name & style of C. M. Henderson & Co.

Second. That the defendant Andrew Palmer, jr., who is a son of said Andrew Palmer, sen., is and for a long time past has been indebted to the plaintiffs in a large sum, to wit, in the sum of thirteen hundred and seventy-eight & $\frac{87}{100}$ dollars, for goods, wares, and merchandise sold and delivered by said plaintiffs to defendant Andrew Palmer, jr., who for a long time previous to the date hereof has been engaged in carrying on and conducting a mercantile business at said Freeborn County, at his, defendant's request, which sum said defendant promised and agreed to pay the plaintiffs, yet that the same remains wholly unpaid,
197 although the plaintiffs have demanded payment thereof since the same became due and payable.

Third. That said defendant, A. Palmer, jr., is indebted and justly owes a large amount, which, in the aggregate, exceeds the sum of thirteen thousand eight hundred and ninety dollars; that the assets of said Palmer only amount to the sum of thirteen thousand five hundred and twenty-nine dollars, and that if all the assets and property of and belonging to said Palmer is applied in payment of his just debts that there will still be a deficit of a large sum.

Fourth. That said Andrew Palmer, senior, for the purpose of cheating and defrauding the said creditors of the said Andrew Palmer, jr., and among the others these plaintiffs, conspired and colluded with said Andrew Palmer, jr., to present a false and fraudulent claim against him, the said Andrew Palmer, jr.; to have the same sued and the property and assets of said Andrew Palmer, jr., attached therein and judgment entered therein, and said assets of said Andrew Palmer, jr., sold thereon in fraud of the rights and equities of these plaintiffs, and of said creditors of said Andrew Palmer, jr.; and that in pursuance of said false, unlawful, and fraudulent agreement, and for the purpose of cheating and defrauding these plaintiffs and the other creditors of said Andrew
198 Palmer, jr., said Andrew Palmer, senior, by his agents and attorneys, on the 23d day of October, A. D. 1875, commenced suit against the said Andrew jr., on divers false and fraudulent notes, purporting to have been executed by the said Andrew Palmer, jr., to said Andrew Palmer, senior, amounting in the aggregate, of principal and interest, to the sum of about $8,433.00, which said suit was commenced in the said court for said county by the issuance and service of a summons and complaint on the said Andrew Palmer, jr., & in which action said defendant, Andrew Palmer, senior, was plaintiff, and said Andrew Palmer, jr., was defendant, which said suit was commenced clandestinely and without the knowledge of plaintiffs, or, as plaintiffs are informed and believe, of any of the others of said creditors, and that until this day plaintiffs have never known of said suit; and that thereafter, and about the 5th day of November, 1875, said Andrew Palmer, senior, without, on his part, any cause therefor, and by collusion with said Andrew Palmer, jr., and for the purpose of cheating and defrauding the plaintiffs and said other creditors, filed in said cause the affidavit and bond in attachment required by law, procured an order from the court commissioner of said county therefor, and procured to be issued out of and under the seal of said court a writ of attachment in said cause against the property of said defendant, Andrew Palmer, jr., and under and by virtue thereof caused all the aforesaid property and
199 assets of the said Andrew Palmer, jr., to be levied on and attached. And that notwithstanding the false and fraudulent character of said notes and his defense on the merits of said cause, said Andrew Palmer, jr., unlawfully and fraudulently agreed to and with said Andrew, senior, not to appear and defend in said cause, & in pursuance

thereof has neglected to answer in said cause, and does not intend to answer therein, but for the purpose of cheating and defrauding the plaintiffs and said other creditors, to permit the said Andrew Palmer, senior, to take judgment in said cause and to levy execution on and dispose of all the assets, property, and effects of said Andrew Palmer, jr., under said levy, which, on an execution sale in said county, will not yield a sum sufficient to satisfy said false and fraudulent claim, and that there will hence be nothing left from which to satisfy the plaintiffs' said claim.

Fifth. That on the 13th day of November, 1875, the said Andrew Palmer, senior, can take judgment in said cause, and that he, said Andrew, sen'r, threatens and intends to take judgment in said cause and threatens to procure an execution thereon, and to sell and dispose of all the property and assets of and belonging to the said Andrew Palmer, jr., aforesaid thereunder, in fraud of the plaintiffs' rights, and of the rights of said creditors of said Andrew, and that the said judgment on
200 such entry will be a lien on divers real estate of said Andrew, jr.

Sixth. That said Asa W. White is the clerk of such court in which said cause above described is pending, and will, unless restrained by a writ of injunction, enter up judgment against said Andrew, jr., in favor of said Andrew, senior, in said cause:

Wherefore the plaintiffs demand judgment against the defendants as follows:

First. That said Andrew Palmer, senior, his agents & att'ys, be for ever enjoined and restrained from entering up & causing to be entered up the said judgment or any judgment in said cause, and from levying on and selling the goods and assets of said Andrew Palmer, jr., thereunder; and that said claim of said Andrew Palmer, senior, be declared false and fraudulent as against the plaintiffs' claim & of their rights in and upon the estate of said Andrew Palmer, jr.

Second. That a preliminary writ of injunction be allowed and issued in this action restraining the said Andrew Palmer, senior, his agents and attorneys, from causing and procuring, and the said Asa W. White, as clerk of said court, from entering up a judgment in said cause during the pendency of this action, and for the other and further relief to which the plaintiffs may show themselves entitled.

MARTIN HOWARD, WITH
STACY & TYRER,
Att'ys for Pl'ffs.

201 STATE OF MINNESOTA,
County of Freeborn, ss:

E. C. Stacy came before me personally, and being first duly sworn, doth say that he is one of the attorney' in the above entitled action; that the foregoing complaint is true to the best of his knowledge, information, and belief, and that the reason why this verification is not made by said plaintiffs is that they are absent from the county of Freeborn, Minnesota, where resides this affiant, their attorney.

E. C. STACY.

Subscribed and sworn to before me this 12 day of Nov., A. D. 1875.
[SEAL.] ASCHEL G. WEDGE,
Notary Public, Minn.

STATE OF MINNESOTA,
County of Freeborn, ss:

Martin Howard came before me personally, and being first duly sworn, doth say that he is one of plaintiffs' attorneys in the above-entitled ac-

tion; that the foregoing complaint is true to the best of his knowledge, information, and belief; and that the reason why this verification is not made by said plaintiffs is that they are absent from the county
202 of Freeborn, Minnesota, where this suit is pending, and outside side of said State of Minnesota.

MARTIN HOWARD.

Subscribed and sworn to before me this 12 day of Nov., A. D. 1875.
[SEAL.] ASA TYRER,
Notary Public, Minn.

(Indorsed:) B. 24. State of Minnesota, county of Freeborn, ss. District court. Tenth judicial district. C. M. Henderson & Co. against Andrew Palmer, s'r, Andrew Palmer, jr., & Asa W. White, defendants. Summons & complaint. Filed Nov. 13, 1875. A. W. White, clerk. 8 a. m. Martin Howard, with Stacy & Tyrer, attorneys. Albert Lea, Freeborn Co., Minnesota.

Dist. court, 10 judicial district.

STATE OF MINNESOTA,
County of Freeborn:

CHARLES M. HENDERSON, WILBUR S. HENderson, & Edmund Burke, plaintiffs,
against
ANDREW PALMER, SEN., ANDREW PALMER, Jr., & Asa W. White, clerk of said court for said county, defendants.

303 STATE OF MINNESOTA,
County of Freeborn, ss:

I, Andrew Palmer, jr., being this day first duly sworn, say on oath that each and every allegation of the complaint of the plaintiffs in the above-entitled action, alleging fraud or collusion between Andrew Palmer, s'r, and Andrew Palmer, jr., is untrue. And each and every allegation therein alleging fraudulent intent to defraud any of the creditors of said Andrew Palmer, jr., is untrue. That the claim of the said Andrew Palmer, sen., against Andrew Palmer, jr., is just and true, and wholly unpaid to the amount stated in the complaint of the said Andrew Palmer, s'r., agst. Andrew Palmer, jr. And affiant further says that the statement in said complaint in this action that the suit of said Andrew Palmer, s'r, against Andrew Palmer, j'r, was clandestinely connived is untrue. That this affiant is the same Andrew Palmer, j'r, mentioned in the complaint in this action.

ANDREW PALMER, J'R.

Subscribed & sworn to before me this 13th day of Nov., 1875.
[SEAL.] JAMES H. PARKER, *Notary Public, Freeborn Co., Minn.*

(Indorsed:) Affidavit of Andrew Palmer, j'r.

204 Dist. court, 10 judicial dist.

STATE OF MINNESOTA,
County of Freeborn :

CHARLES M. HENDERSON, WILBER S. HENDERSON, Edmund Burke, plaintiffs,
against
ANDREW PALMER, S'R, ANDREW PALMER, J'R, & Asa W. White, clerk of said court for said county, defendants.

Upon application of the above-named defendants, it is hereby ordered that the plaintiffs in the above-entitled action show cause before the undersigned court commissioner in said county, at the office of the clerk of the court in said county, on the 13th day of Nov., 1875, at 12 o'clock noon, upon the affidavits hereto annexed, and the papers in said action, and the record of the action in said court referred to in the complaint in said action, why the preliminary writ of injunction in the above-entitled action should not be dissolved and set aside.

B. H. CARTER,
Court Commissioner of said Freeborn Co., Minn.

205 (Indorsed :)

Due service of the within order and affidavit is admitted this 13 day of Nov., 1875, at 11 o'clock a. m.

STACY & TYRER,
Att'ys for Plaintiffs.

Dist. court. Freeborn Co. C. M. Henderson et al. vs. Andrew Palmer, jr., def't. Affidavit & order to show cause. Lovely & Parker, def'ts att'y.

In the district court Freeborn County, tenth judicial district of Minnesota.

CHAS. M. HENDERSON, WILBER S. HENDERSON, and Edmund Burke
against
ANDREW PALMER, SR., ANDREW PALMER, JR., & Asa W. White, clerk of the dist. court in and for Freeborn County, State of Minnesota.

STATE OF MINNESOTA,
County of Freeborn, ss :

It appearing to me by the complaint of Charles M. Henderson, Wilber M. Henderson, and Edmund Burke, copartners under the firm name and style of C. M. Henderson & Co., doing business in the city of Chicago & State of Ills., and the verification thereof dated on the 12 day of Nov., A. D. 1875, that sufficient grounds for an order of in-
206 junction exists, I do hereby order that a writ of injunction be issued out of said court commanding the said defendants, Andrew Palmer, jr., Andrew Palmer, sr., Asa W. White, clerk of the district court in and for Freeborn County, State of Minnesota, their agents, their servants and their att'ys, that they refrain from entering or causing to be entered in any manner or form whatever any judgment

in favor of Andrew Palmer, sr., and against Andrew Palmer, jr., in a cause now pending in the district court of said county & State wherein Andrew Palmer or Andrew Palmer, sr., is plaintiff, and Andrew Palmer or Andrew Palmer, jr., is defendant upon any judgment docket, court calendar, or other record of said dist. court of Freeborn County, State of Minnesota, until the further order of this court, and in case of disobedience to this order you will be liable to the punishment therefor prescribed by law.

Dated November 12th, 1875.

BURTON H. CARTER,
Court Commissioner.

STACY & TYRER, & MARTIN HOWARD,
Plaintiff's Att'ys.

(Indorsed.) C. M. Henderson & Co. vs. Andrew Palmer, sr., et al. Order of injunction. Dist. court. Freeborn County, State of Minnesota. Filed Nov. 13, 1875, A. W. White, clerk. 8 a. m. Stacy & Tyrer, & Martin Howard, plaintiffs' att'ys.

207 Dist. court.

STATE OF MINNESOTA,
County of Freeborn:

CHAS. M. HENDERSON, WILBER S. HENDERSON & Edmund Burke, plaintiffs,
against
ANDREW PALMER, SR., ANDREW PALMER, JR., & Asa W. White, clerk of said court for said co., defendants.

The above entitled cause having been brought on for hearing before the undersigned, at the office of the clerk of said court at Albert Lea, in said county, on the 13th day of November, A. D. 1875, at 12 o'clock, pursuant to order of the undersigned in said cause upon the motion of the defendants to dissolve and set aside the preliminary injunction in the above entitled cause, and having heard sirs Lovely & Parker, att'ys for the defendants in the above entitled action, and Stacy & Tyrer appeared in behalf of said plaintiff, it is hereby ordered that said preliminary injunction be set aside and dissolved.

Dated Albert Lea, Nov. 13, 1875.

B. H. CARTER,
Court Commissioner, Freeborn Co., Mln'.

208 (Indorsed:) Dist. court. Freeborn Co. C. M. Henderson & Co. vs. Andrew Palmer, jr., & Asa W. White, clerk. Order dissolving injunction. Filed Nov. 13, 1875, 5.15 p. m. A. W. White, clerk.

In dist. court, 10th dist.

STATE OF MINNESOTA,
County of Freeborn, ss:

CHAS. M. HENDERSON, WILBER S. HENDERSON, & Edmund Burke, plaintiffs,
against
ANDREW PALMER, JR., ANDREW PALMER, SR., & Asa W. White, clerk of the dist. court in and for Freeborn County, State of Minnesota, defendants.

Know all men by these presents that we, C. M. Henderson & Co.,

principals, and E. C. Stacy and A. G. Wedge, as sureties, are held and firmly bound unto Andrew Palmer, jr., Andrew Palmer, sr., and Asa W. White, def'ts in the above entitled action in the sum of two hundred and fifty dollars, lawful money of the United States, to be paid to said Andrew Palmer, sr., Andrew Palmer, jr., and Asa W. White, their
209 executors, administrators, and assigns. For which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated this 12th day of Nov., 1875.

Whereas the above bounden C. M. Henderson & Co. commenced an action as plaintiffs in the above-entitled action against the above-named defendants in the dist. court aforesaid, and have applied to the court commissioner of said county for writ of injunction therein to restrain the said defendants from entering, or causing to be entered, in any manner or form whatever any judgment or judgments in favor of Andrew Palmer or Andrew Palmer sr., and against said Andrew Palmer or Andrew Palmer, jr., in a cause now commenced in said dist. court:

Now, therefore, the condition of this obligation is such that if the above-bounden S. M. Henderson & Co. shall pay to the said defendants, Andrew Palmer, sr., and Andrew Palmer, jr., and Asa W. White, such damages as they or either of them shall sustain by reason of said writ, then the obligation to be null and void; else, to be and remain in full force and virtue.

C. M. HENDERSON & CO. [SEAL.]
By M. HOWARD, *Their Ag't.*
E. C. STACY.
A. G. WEDGE.

In presence of—
A. M. TYRER.

210 STATE OF MINNESOTA.
County of Freeborn, ss:

Be it known that on this 12th day of Nov., 1875, came before me personally E. C. Stacy & A. G. Wedge, to me well known to be the same persons who executed the foregoing bond, and each severally acknowledged the same to be his own free act and deed.

[SEAL.] A. M. TYRER,
Notary Public.

STATE OF MINNESOTA,
County of Freeborn, ss:

E. C. Stacy & A. G. Wedge upon oath do say, each for himself, that he is one of the sureties above named, and that he is a resident and freeholder of and in the State of Minnesota, and worth the amount of two hundred and fifty dollars specified in the foregoing bond above his debts and liabilities, exclusive of his property which is exempt from execution.

E. C. STACY.
A. G. WEDGE.

Subscribed and sworn to before me this 12th day of Nov., 1875.
[SEAL.] A. M. TYRER,
Notary Public, Minn.

211 (Indorsed:) Bond in injunction. C. M. Henderson & Co. vs. A. Palmer, jr., et al. I hereby approve the within bond and the sureties thereon. Dated Nov. 12, 1875. Burton H. Carter, court commissioner said county. Filed Nov. 13, 1875. A. W. White, clerk. 8 a. m.

District court.

STATE OF MINNESOTA,
County of Freeborn, ss :

I, A. W. White, clerk of said court for said county, do hereby certify that I have carefully compared the annexed copy of summons, complaint, order for injunction, bond, affidavit of A. Palmer, jr., & order to show cause & order dissolving injunction in the case of Charles M. Henderson & others vs. Andrew Palmer, sen., & others, now on file in my office, and that the annexed are true and correct copies of said originals as the same remains of record & on file in my office.

Witness my hand and the seal of said court this 8th day of November, *this 8th day of November*, A. D. 1876.

[SEAL OF D. C. OF FREEBORN CO., MINN.] A. W. WHITE,
Clerk of District Court for Freeborn County, Minnesota.

212–214 (Indorsed:) District court, 10 judicial district. C. M. Henderson & Co. vs. Andrew Palmer, jr., Andrew Palmer sr., Asa W. White, clerk of dist. court Freeborn Co., Minn. Clerk's certificate of transcript. Exhibit C. H. E. Mann, examiner.

215 In the district court of the United States for the district of Minnesota. In bankruptcy.

In the matter of Andrew Palmer, jr., bankrupt.

TO ANDREW PALMER, SR.:

DEAR SIR: I hereby demand of you that you turn over and surrender to me, as the assignee in bankruptcy of the above-named bankrupts, all goods, wares, and merchandize, property, real and personal, moneys, accounts, promissory notes, currency, choses and things in action, now in your possession or under your control or on which you have or claim to have any lien in any way or manner, or which have been transferred to you in any way either by legal proceedings or otherwise by said above named bankrupt since October 1st, 1875; and more particularly all property and effects of every kind held or claimed by you by virtue of legal proceedings in your favor and against said Andrew Palmer, jr., and in which execution was levied November 13th, 1875, on a judgment in your favor entered and docketed in the district court of Freeborn County, and State of Minnesota, on said November 13th, 1875, and against said Andrew Palmer, jr., and in your favor.

Dated February 23, '76.

J. N. ROGERS, *Assignee.*

216, 217 (Indorsed:) U. S. district court, dist. of Minn. In the matter of Andrew Palmer, jr., bankrupt. Demand. Service of the within by copy admitted this February 25, 1876. Exhibit D.

218 (Indorsed:) Exhibit D.

219, 220 (Indorsed:) United States circuit court district of Minnesota. Josias N. Rogers, assignee, &c. vs. Andrew Palmer, sen'r. Copy. Exhibit D.

221 Ex. No. 1.

JANESVILLE, *Oct.* 18, 1875.

JOHN A. LOVELY, Esq.:

DEAR SIR: I send you three several notes against Andrew Palmer, jr., for $2,312.30 each, on which I have partial security by way of mortgage on property in and near Albert Lea. (See vol. II of mortgages, pages 369 & 370.) This security will probably not cover more than half the amount of the debt with the interest now due, and I wish you, if in your opinion that course would be advisable, to proceed at once to obtain judgment upon the notes, and to take such further proceedings as you may deem advisable to secure the ultimate payment of the amount due.

Very truly, yours, &c.,

A. PALMER.

(Indorsed:) A. Palmer, sr. Oct. 18, '75. Claim ag'st A. Palmer, jr.

Ex. No. 2.

NOV. 9, '5.

JNO. MCKILLOP & CO.,
St. Paul, Minn.:

222 Attachments issued in two suits against A. Palmer, jr., yesterday. Amt. involved between $8,000 & $9,000.

Yours,

L. & P.

Ex. No. 3.

JANESVILLE, *Nov.* 18, 1875.

Messrs. LOVELY & PARKER:

GENTLEMEN: Yours of the 16th, informing me that you have obtained judg' and execution on the claim against A. Palmer, jr., and that an effort would probably be made by the other creditor to defeat its collection by throwing the matter into bankruptcy, is received. In answer to your inquiry as to whether I have any instructions or directions to give in case there should be an offer to settle by those opposing my claim, I would reply that as I have no means of knowing the ground on which the opposition to my claim are founded, I must leave the matter entirely to your discretion. I only know that my claim is a just one, long delayed, and that any attempt to defeat its collection upon any other assumption must, in my judgment, signally fail. I shall however leave the matter of deciding as to a compromise entirely with you, and hereby authorize you to act in this behalf as you would act for yourselves under like circumstances. No question can of course arise
223 as to the validity of the security held by me prior to the late proceedings in the matter.

Valuing these securities at say $4,500, I leave it to you to adjust the balance upon such equitable grounds as you may deem best, should that course in your judgement become necessary or proper to avoid expensive and vexatious litigation. But should further attempts be made to defeat my claim by setting aside the judgment and throwing the matter into bankruptcy, I authorize you to retain such further assistance as may be necessary to carry on the contest.

Trusting the whole matter entirely to your discretion,

I am, yours, &c.,

A. PALMER.

(Indorsed:) A. Palmer, sen. Nov. 18, 1875.

Ex. No. 4.

Nov. 16th, '5.

A. Palmer, Sen.,
Janesville, Wis.:

Dear Sir: We obtained judgt. on your claim ag'st A. Palmer, jr., on the 13th after a hard fight. Other creditors are very much excited. They enjoined us, but we dissolved their injunction & have judgment & execution. Probably the creditors will now throw the matter into bankruptcy, & bring suit to set aside our judg't. We shall have to
224 stand by it. Spies & agents will undoubtedly hover around you to fish out points to show a collusion. Now, in case there should be any offer to settle by the creditors, have you any instructions or directions for us? If so, please give them. If this matter goes to bankruptcy, we shall have to retain assistance at St. Paul. We it is best.

Abstract of title to W.½ N. W.¼ sec. 33, township 102, range 21, county of Freeborn, State of Minnesota.

No.	Grantor.	Grantee.	Kind of instrument.	Consideration.	Recorded. Book.	Recorded. Page.	Made. Mo.	Made. Day.	Made. Year.	Filed. Mo.	Filed. Day.	Filed. Year.	Parts of land. N. E. 4th. N. E.	N. W.	S. E.	S. W.	N. W. 4th. N. E.	N. W.	S. E.	S. W.	S. E. 4th. N. E.	N. W.	S. E.	S. W.	S. W. 4th. N. E.	N. W.	S. E.	S. W.	Section.	Town.	Range.	Remarks.
1	United States.....	Parker Swasey, jr	Org. entry	.....	.....	.....	Sep..	15	1857	.....			..	..	..	..	..	..	40	..	40	..	..	..	..	..	..	..	..	33	102	21	
2	Parker Swasey, jr..	Oscar F. Swasey.	W. D	.....	A.	154	Sep..	25	1857	Sep..	26	1857	..	..	..	..	..	..	40	..	40	..	..	..	..	..	..	..	..	33	102	21	
3	Oscar F. Swasey & w	A. C. Wedge	W. D	.....	G.	364	May.	7	1869	May	18	1869	..	..	..	..	..	..	40	..	40	..	..	..	..	..	..	..	..	33	102	21	
4	Albert C. Wedge & w	William Morin...	W. D	.....	G.	386	June	3	1869	June	3	1869	..	..	..	..	..	..	40	..	40	..	..	..	..	..	..	..	..	33	102	21	
5	William Morin & w	Mary A. Palmer.	W. D	.....	K.	136	Oct..	7	1871	Oct..	28	1871	..	..	..	..	..	..	40	..	40	..	..	..	..	..	..	..	..	33	102	21	
6																																	
7	Andrew Palmer, jr., & w., (Mary A.)	A. C. Wedge	Mortgage..	200	G.	438	July.	10	1871	Oct..	10	1871	..	..	..	..	..	..	40	..	40	..	..	..	..	..	..	..	..	33	102	21	
8	A. C. Wedge by, att'y	Andrew Palmer	Disch. m't'g	.....	G.	438	Oct..	8	1875	Oct..	8	1875	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	.....	..		Mortgage recorded in book G, page 438. (Language:) paid. Satisfied & disch'g'd Oct. 8, '75. J. C. Wedge by att'y Wm. Morin, Aug. Paterson, jr.
9	Andrew Palmer, jr., & w. (Mary A.)	Andrew Palmer, sr.	Mortgage..	6, 936	90	I.	369	Oct..	26	1874	Oct..	29	1874	..	..	..	..	..	..	40	..	40	..	..	..	..	..	..	..	..	33	102	21	
10	J. C. Wedge.....	William Morin...	Power att'y	.....	H.	340	M'ch	5	1868	M'ch	5	1868	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	.....	..		(Language of power): Power and authority to discharge mortgages held by me when they are lawfully paid.

226 *Abstractor's certificate.*

I, the undersigned, hereby certify that I have carefully examined the title to the lands described in the within abstract, and that the same is a full, complete, and correct abstract of all conveyances on record affecting the same.

Witness my hand this second day of Dec., 1876.

THEO. TYRER.

(Indorsed:) Ex. No. 5. Abstract of title to W. N.^{2} W.^{4} 33, 103, 23, made the day of , 187 . Fees, $. For J. N. Rogers, assignee of Andrew Palmer, jr. From the abstract and land office of Stacy & Tyrer, attorneys at law, Albert Lea, Minn.

227 United States circuit court, district of Minnesota.

JOSIAS N. ROGERS, ASSIGNEE, &C.,
vs.
ANDREW PALMER, SR.

It is hereby stipulated and 'greed that the depositions of Andrew Palmer, jr., Timothy J. Sheehan, John A. Lovely, and James H. Parker, witnesses on the part of the defendant herein, may be taken before Gilbert Gulbrandson, a notary public, residing in Albert Lea, Freeborn County, State of Minnesota, at his office in said town, on Friday, the 1st day of December, 1876, at 9 o'clock a. m. of said day, and that said depositions so taken may be used in evidence in said case without objection as to time, place and manner of taking the same, and with the same force and effect as if taken before a marshal upon due notice.

Nov. 25, '76.

ROGERS & ROGERS,
Plff's Att'ys.
DAVIS, O'BRIEN & WILSON,
Att'ys for Def't.

228 (Indorsed:) United States cir. ct., district Minnesota. Josias N. Rogers vs. Andrew Palmer, sr. Stipulation to take testimony.

United States circuit court, district of Minnesota.

JOSIAS N. ROGERS, ASSIGNEE, &C.,
vs.
ANDREW PALMER, SR.

STATE OF MINNESOTA,
County of Freeborn, ss:

I, Gilbert Gulbrandson, a notary public within and for said county and State, do hereby certify that pursuant to a stipulation entered into by the parties to this action, dated Nov. 25th, 1876, and which is hereto annexed, Andrew Palmer, jr., Timothy J. Sheehan, John A. Lovely, and James H. Parker, whose testimony is hereto annexed, attended before me with counsel for the respective parties on the 1st day of December, A. D. 1876, at 9 o'clock a. m. at my office, in Albert Lea, said county, and the said John A. Lovely, James H. Parker, Andrew Palmer, jr., and Timothy J. Sheehan, who, being each duly sworn to tell the
229 truth, the whole truth, and nothing but the truth, in relation to

said matter, I proceeded to take the testimony of the said witnesses on their separate oaths, and in the order respectively as last stated, and that they each testified literally as set forth in the annexed deposition, which they each subscribed in my presence, after their respective testimony had been carefully read to each of them.

I' testimony whereof I have hereunto set my hand and affixed my seal this 4th day of December, A. D. 1876.

[NOTARIAL SEAL.] GILBERT GULBRANDSON,
Notary Public, Freeborn Co., Minn.

My fees as notary public in said matter is as follows: 168 folios of testimony at 20, $33.60; administering 4 oaths, 25, 1.00—$34.60.

JOHN A. LOVELY, sworn, testifies as follows:

I am a lawyer; am a member of the firm of Lovely & Parker; I reside at Albert Lea. Have resided here eight or nine years. The firm of Lovely & Parker were attorneys in a suit commenced by An-
230 drew Palmer, sr., of Janesville, Wisconsin, against Andrew Palmer, jr., of Albert Lea, Minnesota. In the month of October (23rd day) 1875, that suit was commenced. I know Andrew Palmer, sr., of Janesville, Wis. I have known him since the fall of 1868. I talked with him in 1868 *about this indebtedness referred to in the suit of Andrew Palmer, sr., against Andrew Palmer, jr. Andrew Palmer, sr. has several times inquired of me as to how Andrew, his son, was getting along—as to whether he would be able to pay those notes.

(The foregoing from * taken under the objection on the part of pl'ff on the grounds that it is immaterial and irrelevant.)

In October, 1875, about the 14th or 15th, I was in our office with Mr. Parker; the mail came in from the East; there was a letter in the mail from Farrington & Schmahl, of Chicago, with a claim against Andrew Palmer, jr., of $595.75. Mr. Parker handed the account to me, and I said I would attend to it. *I went to Mr. Palmer, jr., with that account two or three days afterwards. Previous to that time I had no knowledge of anything affecting Mr. Palmer's, jr., solvency or credit in any way. This was two days before the summons was served in the Farrington & Schmall case. I showed Palmer, jr., the bill of Farrington & Schmall and told him it had been sent to us. He looked at the bill for some time, one or two minutes, and he told me that it was an
231 outrage for those fellows to ask pay for 60-day goods in 30 days. I asked him if that was what was the matter with the bill, and he said it was. I asked him if there was any other trouble with the bill, and he said no. He then opened his invoice or bill book and showed me bills for same kind of goods on 60 days' time. I then went back to the office and told Mr. Parker, who had charge of the collection department of our office, what Mr. Palmer, jr., had said, and that Palmer, jr., would pay it in 30 days; that he was good, and we had better wait and he would pay it. Parker said we had no business to wait; that our instructions was to collect at once. I read the letter from Farrington & Schmall, which I hadn't read till then, and found there was no alternative but to sue. I told Mr. Parker I would draw the papers and see that they were served, and that I wanted to see Mr. Palmer, jr., first, however; and I went to see him two or three times, but could not find him. I drew the complaint, summons, and verification. I went down to Palmer, jr.'s, store on the 20th day of October, 1875, and served the papers on him. He did not like it. I told him I supposed it was all right, and that we would either have to sue him or send the claim back. I

asked him if he would admit service, and he refused. He was provoked, and said he would not. I told him that if he would not admit
232 service, that I would have to place the papers in the hands of an officer, and it would make more costs and make talk, and I only wanted him to do it as a matter of favor to him. He thought it over, and finally took a pen and signed the admission of service, and said he would pay the claim before judgment was rendered.

(All the foregoing evidence from the last * was, by agreement of parties, taken under the objection of pl'ff, on the grounds that it was incompetent, irrelevant, and immaterial.)

* On the same day, or the day after the commencement of the Farrington & Schmall suit, I received a letter directed to me from Andrew Palmer, sr., (said letter being hereunto annexed, and marked Exhibit No. 1.) I am acquainted with the handwriting of Andrew Palmer, sr., and this letter I know to be in his own handwriting. I then went and found Andrew Palmer, jr., and asked him up into my office, and went into my inside office. I told Palmer, jr., that I had received a letter from his father directing me to sue those notes he had given to his father. He appeared to be very much surprised, pulled his mustaches a long time, and said it was very strange, and asked to see the letter. I did not show him the letter. I asked him what he thought the reason
233 was his father was suing him. And I asked him if he was having trouble with his creditors. He said no, and that somebody had probably been talking about him to his father, and his father was probably scared or provoked because he had not paid the interest on the notes; and he wanted me to wait before I did anything until he could write to his father or see him. I told him I would consider it. He asked me several times not to do anything till I got another letter from his father. I told him I would talk with Parker, and we would consider it. He went away. I went into the outside office and handed the letter I had received from Andrew Palmer, sr., to Mr. Parker. I told him that I thought we had better commence suit on those notes; that there was trouble between the old man and his son. Mr. Parker took the letter and looked it over. The management, charge, and conduct of the suits against Andrew Palmer, jr., was left entirely with Mr. Parker after this time until the morning of November 13th, 1875, when Mr. Martin Howard left for Chicago.

(The foregoing from the last * is taken under objection on the part of pl'ff, by agreements of parties, on the grounds of it being incompetent, irrelevant, and immaterial.)

The above facts are all the facts in my knowledge regarding Andrew Palmer, jr.'s, condition as to solvency or insolvency at that
234 time. * After the attachments were got out Palmer, jr., came up to see me, and wanted to know what the attachments were got out for. I told him he would have to talk to Mr. Parker about it; that he had charge of the matter. I had known that the attachments were being got out. He said that he could probably fix the thing up with his father, and that he did not wish to be broken up in his business, and he wanted to know if he could not keep possession himself. I told him that it was beyond my control; that the papers were in the hands of the sheriff. He left, and seemed to be angry. I sent for the sheriff and told him that we held him responsible, and he must take possession of the goods, and to not pay any attention to what Palmer said about it.

Recess 1½ o'clock p. m.

1½ O'CLOCK P. M.

John A. Lovely resumes and testifies as follows:

I do not remember of any conversation with Palmer, jr., relative to his father's claim except as above stated. After the attachments were issued and levied on the stock, Mr. Palmer, jr., came into our office with some books, papers, and checks. They were the wheat checks that he had been paying off for Hyde, Cargill & Co., and papers relating to that business, and after having been in our office for some time, he said
235 he had been turned out of his store, and asked if he could use the table there to settle up with Cargill. I told him we did not have a great deal of room there, and would rather he would get some other place. He stayed there awhile after this conversation. He went away shortly after. I have read Mr. Philbrick's testimony taken before Mr. Mann. I never had any conversation with Mr. Philbrick about any subject that I know of. I do not know him. Never talked with him about Palmer's matters at all. Have read the testimony of Martin Howard given before Mr. Mann. I remember seeing Mr. Howard the day before the entry of judgment in the case of Andrew Palmer, sr., against Andrew Palmer, jr. It was about 4 o'clock p. m. He came into the office with Mr. Palmer, jr. I was getting ready to go home to dinner. It was my dinner time. Mr. Palmer, jr., said, "This is Mr. Howard. He was coming here to talk about a compromise for my creditors." He said he wanted to talk with me about it. I shook hands with Howard and told him that I was going home to dinner, and that he would have to talk with Mr. Parker; that he was out and would be in in a few minutes. I told him that Mr. Parker had charge of that matter, and he would have to see him. They then turned and
236 went out of the office, and I went home to dinner. Mr. Palmer, jr., did not have any private conversation with me in my office or in the inside office that day, as is stated by Mr. Howard. I have stated all that transpired between Mr. Howard, Palmer, and myself in my office at that time and at that interview. That is the only time I ever spoke to Mr. Howard in my life. I have never seen him from the time he left the office since. I did not come down to the office that evening. I remained at home.

Question. Tell whether or not during that interview or conversation between yourself, Howard & Palmer, Mr. Palmer said that his father was entitled to a judgment, or any words to that effect.

Answer. Nothing of that kind was said then or at any other time by Palmer. All I ever said to Howard was that I could not talk with him; that I was going to dinner.

Question. Tell whether or not then, or at any other time, in the presence of Howard, you said or insisted that you must take judgment in the Palmer case.

Answer. No, sir; I did not say anything of the kind.

Question. Tell whether or not you and Mr. Parker were together on the streets of Albert Lea on the morning of the 13th day of No-
237 vember, 1875, at any time previous to the departure of the train going east.

Answer. No, sir; I came to my office on that morning before train-time and found Mr. Parker there. He told me he expected to see Mr. Howard. Mr. Parker went out of the office to find him, and I remained in the office that morning until long after the train departed.

Question. Tell whether or not you and Parker on the morning of the 13th of November, 1875, met Mr. Howard, or was seen by him at or near the hotel at which he stopped in Albert Lea.

Answer. No, sir; for I was not there with Parker.

(The foregoing evidence from the last * was by the agreement of the parties taken under the objection of the pl'ff that the same is incompetent and immaterial.)

Question. State whether or not at the time of receiving this claim from Andrew Palmer, sr., or at the time of the commencement of the action, or at any time previous to the entry of the judgment in the case of Palmer, sr., vs. Palmer, jr., you were individually, or if the firm of Lovely & Parker were the attorneys of Andrew Palmer, jr., either generally or specially.

238 Answer. No, I was not; neither was the firm of Lovely & Parker at the time mentioned his attorney or attorneys, or interested in his behalf. Lovely & Parker were never the general attorneys of Andrew Palmer, jr. I never advised Andrew Palmer, jr., nor do I know of Mr. Parker advising him about his difficulties or about the suit of Andrew Palmer, sr. There never was an arrangement or agreement between Andrew Palmer, jr., and myself as regarding the suit brought against him by his father. On the contrary, we treated him as we would any other defendant in a suit where we were attorneys for the pl'ff.

Cross-examination:

I got acquainted with Andrew Palmer, sr., in 1868, and I have been quite intimate with him, and have advised him on other matters, and have seen him almost every time he has been here, which is generally once a year. Have never seen him except upon these visits that I remember. Have known him to be here from one to two weeks.

Question. What has been your relation with Andrew Palmer, jr., during the last eight years?

239 Answer. Until about the month of August, 1873. I was quite friendly with Mr. Palmer; our relations were intimate. We had some differences in settling up our business that caused a coolness, but we had no high words. I have done some business for Mr. Palmer since then, but our social relations have not been as intimate as before. We have not been intimate at all. I never was Andrew Palmer, jr.'s, general attorney at all. He did not have one to my knowledge. I have done some of Andrew Palmer, j'r', business. I think so far as my knowledge goes, that Andrew Palmer, jr., has employed me more than any other attorney during the last eight years. Do not know of any other attorneys being employed by him in any suit. I never tried but one litigated case for him. He has frequently advised with me about business matters during that time. I have brought several suits for him during the last 8 years. Do not think they exceed one-half dozen in number. In justice's court matters Mr. Palmer generally attended to his own business. I do not know whether A. Palmer, sr., knew of these relations between A. Palmer, jr., and myself or not. I roomed with A. Palmer, jr., nine years ago. I did not do all my trading with A. Palmer, jr. I traded out my bills with Mr. A. Palmer, jr. Have met A.

240 Palmer, sr., at the store of A. Palmer, jr., a few times, not more than 4 times I think. I first saw these notes about the time the suit was commenced. I received a letter about that time. It is the letter in evidence marked Ex. No. 1. Had no correspondence with A. Palmer, sr., in relation to the matter of those notes previous to that time. Know the reason those attachments were got out in the Palmer, sr., & Farrington & Schmall cases. I supposed when I commenced the suit for Andrew Palmer, sr., that the matter would be adjusted, and I thought the Farrington & Schmall claim would be paid, but Mr. Parker

told me some time after the suit was commenced that Palmer was trying to sell out his stock. I learned too that other claims had come to the Freeborn County Bank. These facts were also known to Mr. Parker, and Mr. Parker insisted upon it that it was our duty to commence attachment proceedings in order to protect our clients. I went into Armstrong's bank one day and he asked me what I knew about Palmer's affairs, and I told him about these suits, and he said he had a claim and Palmer had not paid it. Did not suppose at the time of the commencement of the attachment proceedings that Palmer was
241 insolvent. Thought he had ample means to pay all his indebtedness. When I asked him for payment on his father's claim, he said it was impossible to get the money out of his business to pay it. He said he thought he could fix it with his father. He did not offer to pay the interest or any part of the principal. The attorneys for A. Palmer, sr., in this case were Lovely & Parker. The letter previous to the suit was to Lovely, and subsequently the letters from him in relation to this business were directed to Lovely & Parker. In these conversations subsequent to the attachment he said that he did not want his business broken up.

Redirect:

When Palmer said that he did not want his business broken up, he said he could fix all his matters and pay up all he owed.

Recross-ex.:

The first I knew anything indicating his insolvency was when Mr. Howard came here and Parker told me of their interview, and of the proposition to compromise his indebtedness at a sum less than the face thereof. Mr. Parker told me this in the morning before the judgment in favor of A. Palmer, sr., was rendered, and after the injunction of C. M. Henderson & Co. vs. A. Palmer, sr., et als. was served.

Redirect:

242 Since August, 1873, I have traded but very little, about $75.00 altogether, with Mr. Palmer, jr. Do not remember of having had a settlement since that time.

JOHN A. LOVELY.

Subscribed and sworn to before me on this 1st day of December, 1876.

[NOTARIAL SEAL.] GILBERT GULBRANDSON,
Notary Public, Freeborn Co., Minn.

Recess to 7 o'clock p. m.

7 O'CLOCK P. M.

JAMES H. PARKER sworn, and he testifies as follows:

I live in Albert Lea, and I am a member of the law firm of Lovely & Parker; have been a member of that firm since March 1st, 1874. At no time since we were partners have we been the general attorneys of Andrew Palmer, jr., nor have we been his special attorneys in any case except in one or two cases drawing some legal papers. In relation to his business or his indebtedness to his father so far as I know, we had no conversation or consultation with him whatever, previous to the commencement of the action of his father against him, and except so far as testified to by Mr. Lovely, and of which I know nothing personally, until after the entry of judgment in that case.

243 The first I knew anything about the claim of his father against him, was about the 20th of October, 1875. I was sitting in the front room of our office. Mr. Palmer came out of the back room where Mr. Lovely usually works, and he passed out without saying a word. Mr. Lovely came out a few minutes afterwards, and he held in his hand a letter, which I think is the same letter in evidence as Ex. No. 1, and said we had got to sue Andrew Palmer, jr. He showed me the letter and we examined and discussed the contents of it for the purpose of determining whether we had better foreclose the mortgage first and sue for the balance afterwards, or sue first and foreclose the mortgage afterwards, if we failed to get enough to satisfy our judgment. We determined to sue first. After the service of the summons in that case we paid but very little attention to the case till after 1st of November, 1875. I heard something about Mr. Palmer, jr., that made me think it better and safer to get an attachment, and we accordingly got an attachment in that case, and also in the case of Farrington & Schmahl. At the time we sued Palmer for Farrington & Schmahl, I had no idea that he would allow it to go to judgment, and I expected it would be paid before time for entering up judgment. I also supposed that at the time we got the attachment out in the Palmer case that he would settle it in some
244 way, because he said on several occasions that he had enough to pay his debts. After the attachment was levied he came into our office and I heard him have some talk with Mr. Lovely about being allowed to remain in here, the substance of which was that he did not want his business interrupted. I remember he said that if the store was shut for 5 or 6 days that his Norwegian customers would go off and trade somewhere else, and he would lose his customers. I cannot say the exact words, but the substance of that conversation was that he hoped to or expected to make some arrangements with his father to settle it up. Mr. Lovely, and I concurring in it, refused to make any such arrangements. We told Mr. Palmer, either on that occasion, or some other, I think on that occasion, that if he could make any arrangements with his father he had better do that first, and then talk to us afterwards. I don't remember anything about it till the evening of the 12th of November, 1875, the evening before the judgment in the Palmer case was entered. I was in my office at work. I had not previously seen Martin Howard nor Mr. Philbrick, nor, so far as I now recollect, Mr. Palmer that day, nor did I have any idea or any knowledge that they were to come to the office that evening. Three gentlemen came into the office, one of whom was Mr. Palmer, jr., the other two I did not know. Mr. Palmer
245 introduced one of them as Mr. Howard and the other as Mr. Philbrick. I think Mr. Palmer said that Mr. Howard and Mr. Philbrick each represented some one of his creditors, and that they had come in that evening to see if some arrangements could not be made to effect a settlement or something of that sort. Mr. Lovely was not in the office that evening. At no time during that evening did Mr. Palmer say that his father was entitled to a judgment.

In any conference that was had there between the parties that were present I did not understand that, in such meeting or conference that I represented anybody, because those persons came without my previous knowledge and I did not intend to bind myself or anybody else by any part that I took in that conversation, and I tried to keep aloof from it during the whole evening. Those persons came there without my solicitation or desire. I knew nothing of their previous conversation with Mr. Lovely. While I had no objection to those parties being in there talking over Andrew Palmer, jr.'s, affairs with his other creditors,

still I refused to involve A. Palmer, sr.'s, claim. Mr. Howard inquired of me about A. Palmer, s'r's, claim, as to how much it was when it was sued, &c., and also about the Farrington & Schmahl claim. I gave him such information as he asked for. Told him when we would be enti-
246 tled to enter up judgment, if no answer was put in. Several propositions of a settlement were talked of and discussed between Messrs. Howard, Palmer & Philbrick, some of which I can't now recollect, but I noticed this thing, that whenever they would seem to come somewhere near a conclusion, Mr. Howard seemed to turn to me and try to get me to come to some agreement whereby we were not to enter up judgment. I refused to make any such agreement. I told Mr. Howard that if he could make a satisfactory settlement with Mr. Palmer, jr., that it was none of his business, nor his client's business whether Mr. Palmer, sr., entered up judgment or not. About that time Andrew Palmer, jr., intimated to me that he would like to speak to me, and we went into the back office together and there he represented that he could probably effect a settlement with his creditors if his father's claim was not in such shape as it was. He either told me that he had a letter from his father, or that he could make arrangements with his father, I can't remember now which, to the effect that his father did not want to get any advantage of his other creditors, and would settle his claim on the same basis as the others, or something of that sort. I told him in reply to what he said to me that we were his father's attorneys; had never received any such communications or instructions from him, and that I should
247 not feel authorized or at liberty to act on anything of that sort where it ought to have come straight. He then urged me to defer entering judgment until he could write and get a reply from his father. I told him that our instructions were to put that thing into a judgment, and that if he could settle with his father he could do so just as well after it was put into a judgment as he could before.

We then went out in the front office again where Howard & Philbrick was, and substantially the same talk was gone over again after we came out as Palmer and I had had in the back office, urging that same course upon me; that was, the delay of entering judgment. I did not believe then, nor did I believe afterwards, till after Mr. Palmer had made out his schedule to go into bankruptcy, that he was insolvent. After I had refused to postpone the entry of judgment, a proposition was made, I think by Mr. Palmer, that seemed to be acceptable to Mr. Howard and Mr. Philbrick, that I paid some attention to. It was not a proposition to pay 50 cts. on the dollar of his indebtedness, nor 50 cts. on the dollar of his assets, but it was a proposition by Mr. Palmer to pay his creditors the full amount of all his personal assets to be proven in some way, and before some accountant to be selected by his creditors, the same to be paid in three, six and nine months according to my pres-
248 ent recollection, and to give ample and acceptable security for the payment of it. They asked him what security he could get, and he told them he thought he could get Billy Cargill to sign notes with him. Mr. Howard inquired who Cargill was, and if he was responsible. Mr. Philbrick answered that he was a member of the firm, Hyde, Cargill & Co., wheat buyers, and that he was good. And that answer seemed to be satisfactory to Howard. When they had talked up that proposition till they seemed to be agreed upon it, Mr. Howard again turned to me and wanted me to refrain from entering judgment, and wanted me to accept that proposition on behalf of Mr. Palmer, sr. I told him that I had no authority to enter into any agreement nor accept any proposition of compromise. I told him further, as I had before,

that if he was satisfied with Mr. Palmer's proposition, it did not make any difference to him or his clients whether we entered up judgment. In that proposition and as a basis of settlement, and according to my recollection of it now, Mr. Palmer, jr., proposed to those men to treat his father's claim in this way: to consider half of that claim as secured by the real estate, and to class the other half in the same basis as with the other debts. And he spoke with confidence to them that his father would agree to such an arrangement, and he and Howard both
249 wanted me to refrain from entering judgment until such time as he could hear from his father. I replied in substance, that if they could make arrangement with his father at all they could do it just as well after judgment as they could before, and we need not delay entering judgment on that account.

Mr. Palmer, jr., then proposed to make that arrangement with other creditors without any regard as to whether his father would accept it or not, claiming to be confident that he could get his father to accept it afterwards. Messrs. Howard & Philbrick pretended to be satisfied, and at their request Mr. Palmer went or sent for Mr. Cargill. Mr. Cargill came there and they stated to him their proposition; he agreed to sign the notes with Mr. Palmer, according to that proposition. Mr. Howard said he would go to the hotel that night, and he would draw up an instrument binding Cargill to sign those notes, when the amount should be determined and proven what it was. And he said that he would go and make such arrangements with the other creditors as would bring them into the settlement. Mr. Palmer queried as to whether he would be able to get the other creditors to come into it. He claimed that he could make them all come in; Mr. Philbrick did not take
250 much part in the conversation. Philbrick & Howard then left the office; it must have been about ten o'clock. Mr. Howard made the appointment to meet there at 8 o'clock the next morning for the purpose of having Cargill sign that document. After they went away Cargill and Palmer remained in the office, and at their request I drew up a mortgage from Mrs. Palmer & husband upon Mrs. Palmer's separate and unincumbered property, running to Cargill to indemnify him from any liability he might incur in signing those bonds and notes, because Mr. Cargill, as I understood, declined to Palmer, although he did not tell Howard & Philbrick so until he had got this indemnity. I called the next morning at Mr. Palmer's house, and Mrs. Palmer and her husband executed that mortgage. I was at the office the next morning at or before 8 o'clock. Mr. Palmer and Mr. Cargill came, and Mr. Howard and Mr. Philbrick did not. I came to my office the next morning solely for the purpose of fixing up the indemnity for Cargill. I was not on the streets of Albert Lea on the morning of the 13th of November, 1875, in company with Mr. Lovely, and I did not on that morning in company with Mr. Lovely meet Mr. Howard when he came out of his hotel, or near his hotel or any other place. At a little before
251 9 o'clock, or just before the departure of the train going east, I left the office, but not as Mr. Lovely supposed for the purpose of finding Mr. Howard, but for the purpose of entering the judgment of Mr. Palmer's, in the clerk's office.

I presented to the clerk the papers made up in the form of a judgment roll and requested him to enter judgment, and he declined to do so, informing me that an order had been filed there. I asked to see it and he showed me a paper purporting to be an order from the court commissioner of the county directing a writ of injunction to be issued restraining the entering of that judgment. I went from there back to the office

and on the way back, between the court-house and our office, I met Mr. Howard, for the first time that morning. I did not say to him "You think you are smart," or anything of that sort; on the contrary, I bowed to him and said "Good morning, sir"; he said nothing and passed on; I went to my office and returned again immediately to the court-house; there I again saw Mr. Howard; he made the remark to me that he had discovered that there was such a thing as an injunction in this State; I may have said to him "You think you are smart"; I also said that I had learned from the books that there was such a thing as dis-
252 solving an injunction and that I would have his injunction bursted before noon. During the conversation at our office in the evening Mr. Palmer did not at any time, to my knowledge, refer to Lovely & Parker as his attorneys; Mr. Howard did not during that conversation on that evening, in my hearing, ask Mr. Palmer how his father happened to send his claim to Lovely & Parker.

Examination adjourned to 9 o'clock to-morrow *to-morrow* morning, December 2d, 1876.

9 O'CLOCK A. M.

JAMES H. PARKER resumes and testifies as follows:

I did not, in my conversation with Mr. Howard at the court-house on the 13th of November, 1875, or at any other time or place, say to him that I knew his object, and that it was to stave off our judgment until he could get to St. Paul or send there and have a petition in bankruptcy filed against Andrew Palmer, jr., nor any words of like import. Immediately after the attachments were levied in those cases I notified John McKillop & Co., of St. Paul, they being a branch house of an extensive commercial and collection agency, which notice was in writing and sent by mail.

253 (Copy of letter to Jno. McKillop & Co. taken from letter-press copy-book, introduced in evidence, and annexed hereto, and marked Exhibit No. 2.)

Very soon after the entry of the judgment in the Palmer case I notified Mr. Andrew Palmer, sr., that we had entered judgment, and in reply to my notification we received a letter from him.

(Letter produced by witness and offered in evidence and annexed hereto and marked Ex. No. 3.)

(All the foregoing evidence of Jas. H. Parker is, by consent of parties, taken under the objection of pl'ff from the last * that the same is irrelevant, incompetent, and immaterial.)

Pl'ff asks that the letter-press copy of letter written by Messrs. Lovely & Parker to Andrew Palmer, sr., to which Ex. No. 3 is a reply, now in court, be filed in evidence in connection with Ex. No. 3.

Cross-examination:

We are the general attorneys of several persons, but we have no general retainer fee from any person except the S. M. R. R. Co. I mean by general attorney that we do all the legal business for such persons and that we would not accept a suit against such persons; we were
254 not in that sense or in any sense the general attorneys of Andrew Palmer, jr.; there are persons against whom we would not accept a collection because we could not know whether it would be contested or not; against any person for whom we consider ourselves the general attorneys we would not accept a collection; Ruble & Green are the only persons for whom we consider ourselves the general attorneys in that sense now that I remember; do not know what the rela-

tions between Lovely & Mr. Palmer were before I became a partner of Lovely; since that time I knew of nothing unfriendly between them nor anything unusually social; do not know that Palmer, jr., had ever engaged any other attorneys except us since my partnership with Mr. Lovely; I do not know that it has been Mr. Palmer's habit to consult Mr. Lovely on matters of business since our partnership; I was not in the habit of counselling with Mr. Palmer, jr., in reference to matters of business about the time of the entry of judgment in the Palmer case; he came in a few times about that time and talked about trying to effect a settlement with his father and his other creditors; I always de-
255 clined to give him any advice or to counsel him in any manner.

The first time I knew of the receipt by Mr. Lovely of the Palmer, sr., claim was when Mr. Lovely brought the letter from the back room after Mr. Palmer's visit. I think this was in the afternoon, but I do not know. I do not know whether this letter was received by Mr. Lovely the same day or not. When we commenced the action for Palmer we knew of no reason therefor and had no intention of applying for attachment. Some of my reasons for applying for attachment were that the Farrington & Schmahl claim was not paid when we expected, and we could see no prospect of his father's matter being arranged. I knew that Andrew Palmer, jr., had carried a nice, large, and valuable stock of goods for a long time; that he had had a good trade, and must have realized a good deal of money from the sale of those goods, recently, before the commencement of the suit and prior to the attachment. I could not hear that he had paid out any money toward paying his debts. Mr. Lovely informed me that there was a claim at Armstrong's bank
256 that had been presented and was unpaid, and that suit was liable to be commenced upon it, and I believed that all the goods that Palmer had sold even in the regular course of his trade was so sold in fraud of his creditors. I heard also that he was trying to sell out his stock, and from the fact that I could not learn that he had paid any of his creditors lately, I believed that if he sold out his stock it would be to defraud his creditors. I did not know who Mr. Palmer's creditors were at this time. I did not know the condition of claims against him except the ones we had and the one at Armstrong's. My reason for the supposition that Mr. Palmer was not applying the money received in the course of his business in liquidation of claims against him in addition to the fact that the claims in our possession and the one at the bank was not paid, was that Mr. Palmer did not make any claim that he was so applying them, but on the contrary claimed that his trade was so small that he was accumulating little or nothing. This has reference to the state of facts after the commencement of the suits and before the attachments. I made the affidavit for attachment. The first
257 time that I ever heard of a compromise with his creditors, at a sum less than the face of his indebtedness, was on the evening before the judgment in the Palmer case, when Mr. Howard was present. I do not know whether they discussed the amount of Mr. Palmer's liabilities on that evening. I think Mr. Palmer claimed that his assets would pay about 55 c'ts on the dollar of his indebtedness.

Howard & Philbrick did not claim to represent all of Mr. Palmer's creditors. I never saw Mr. Howard before or since his visit to this town at that time. I have no recollection of writing to Palmer, sr., or know of no correspondence by us from the commencement of the suit to the time of the entry of judgment. I do not remember of writing a letter of receipt, and do not know of Lovely doing it,

for those notes. It is our custom to do it, however. I did not, nor did Mr. Lovely to my knowledge, recommend Mr. Palmer, jr., to write to his father during this time, unless what I said to him in answer to his solicitations not to enter judgment as I have heretofore testified, might be so construed. Mr. Lovely's work and mine in the office are quite separate. He does considerable work that I know nothing about, and I do work he knows nothing about. On the evening when Mr. Howard was present, when Mr. Palmer called me into the back room he showed me a letter or stated to me that he had received a letter, or could
258 make an arrangement with his father, I don't remember which. I do not remember the purport of the terms of that letter, or as stated to me by Mr. Palmer. Mr. Palmer expressed his confidence that he could make arrangements with his father himself upon the basis stated in my direct examination.

Question. Did any of those propostions that you heard when Mr. Howard was present on that evening in your office for an adjustment of Andrew Palmer, jr.'s, matters contemplate the payment of his liabilities in full?

Answer. I do not understand that there was but one proposition made; the talk between the parties preceding that proposition appeared rather to be a fishing for propositions. That proposition I have already testified to, and I understood that proposition to be the payment of as much as his personal assets would amount to, more or less. Mr. Palmer gave as his opinion that it would amount to 55 c'ts on the dollar. The only instructions we had from A. Palmer, sr., were contained in the letter marked Ex. No. 1. I saw the complaint of C. M. Henderson & Co. against Andrew Palmer, sr., et als., before the entry of judgment in the Palmer case.

(All the foregoing cross-examination of James H. Parker is taken under the objection by the defendant, by agreement of parties, that the same is irrelevant, incompetent, immaterial, and not proper cross-examination.)

259 Recess to 1½ o'clock *m.* m.

1½ o'clock p. m. Case called. Case adjourned to 7½ o'clock p. m. Case called 7½ o'clock p. m.

Redirect:

Notwithstanding Palmer mentioned the sum of 55 cts. on the dollar as the probable amount of his assets in the conversation heretofore testified to, I then believed that full showing of his assets would amount to 100 cts. on the dollar of his indebtedness and more. I believed that if in any showing he might make of his assets in pursuance of such proposition the amount should be less than the total amount of his debts, it would be in consequence of a fraudulent concealment of a portion of his assets. During that conversation he made no mention of the sum of twenty-three hundred dollars, which as now appears was then in the hands of Mr. Cargill. I did not see the complaint in the case of C. M. Henderson & Co. against Andrew Palmer, sr., et als. until after I had made proof of the default in the case of Palmer, sr., vs. Palmer, jr., and tendered the papers to the clerk of the dist. court for entry of judgment. In that case no writ was issued, and so far as I can learn no summons was served previous to the entry of judgment in the Palmer case.

260 (The foregoing redirect evidence of Jas. H. Parker is taken by agreement of parties under the objection of pl'ff on the ground that it is irrelevant, incompetent, and immaterial.

At the request of the pl'ff it is agreed that the letter-press copy of

the letter to which Ex. No. 3, hereto annexed, is a reply, may be attached hereto as an exhibit, and may be read in evidence by either party. And the same is hereto annexed and marked Ex. No. 4.)

Recross:

Question. What items of Mr. Palmer's assets were talked of at that meeting at which Howard was present?

Answer. I have but a very indistinct recollection about that. I do remember that there was talk about the probable value of the stock, and I think there was some inquiry about some wheat that was claimed that Mr. Palmer had raised that year.

Question. Had you any further reason for believing that Mr. Palmer intended to fraudulently dispose of his assets than you have stated?

Answer. From general appearances I supposed Palmer had been doing a prosperous business since I came here in 1871. During that time I had not known him to suffer any serious losses. I had not dis-
261 covered that he was a man of expensive habits. He had not invested anything in a home nor in a place of business, and I believed he must have accumulated money or property.

JAMES H. PARKER.

It is stipulated that the abstract of the west half of the northwest quarter of section No. 33, town 102, range 21, may be received and read in evidence, and have as evidence all the force and effect that the record or the original conveyances therein referred to would have if offered in evidence. Said abstract annexed hereto and marked Ex. No. 5.

ANDREW PALMER, Jr., sworn, and testified as follows:

I know F. W. Philbrick. The first time I ever saw Mr. F. W. Philbrick was on the same day and soon after the attachments were levied in the cases against me. At that time the sheriff was in possession of the store and stock. We were not at that time doing business in the ordinary way, but the clerks under the direction of the sheriff were putting the goods away in order to take an inventory. Had some conversation at the store with Mr. Philbrick, and it was substantially
262 as he has stated. I had another conversation at my house the evening with Mr. Philbrick. He asked me if there had been a suit brought against me, and I told him there had, but were in hopes to settle it. He asked me what I was going to do about it, and I told him that I had not fully determined, but would probably take counsel in the matter. I had no further talk with him upon the subject of taking counsel. Two or three days after I saw him again, at the store. Sheehan was in possession of the store taking inventory, and I was assisting him. The store was closed, and he called for me at the south door. Sheehan let me pass out, and he passed out with me also. Mr. Philbrick asked me in the presence of Sheehan if it were true that my father had sued me. I told him it was. He asked me who were my father's attorneys. I told him Lovely & Parker. He asked me what my father had sued me for. I told him my father's attorneys would tell him. He asked me who my attorneys were. I told him that I had none; that I was busy and had no further time to talk with him. I went into the store again with Sheehan. Mr. Sheehan was present during the whole of this conversation. Did not have any other con-
263 versation with Mr. Philbrick at the store at which Mr. Sheehan was present, except the two above referred to. I did not say to him at that conversation that I had nothing to say to him, as everything was left with my attorneys, Lovely & Parker. He did not say to me,

"It is very strange you and your father should have the same attorneys," or anything of that import.

After my store was closed I took Hyde, Cargill & Co.'s books, checks, and papers into the office of Lovely & Parker one day, figured them up, and made out my statement to Hyde, Cargill & Co. in that office. It is my impression—yes; I saw Mr. Tyrer in the office when I was thus engaged. I had not control or possession of any of my business, books or papers after the attachment. I did not transact any business. I know Martin Howard. I first saw him the 12th day of Nov., 1875; I saw him first at my store, and we went from the store to my house. I had a conversation with him. No one was present at that conversation. I did not tell him when father would take judgment. I never told Mr. Howard that my father was my most intimate friend, and that I thought he was the man above all others that should be taken care of, or any words to that effect. I never told him that I would go with him to my attorneys, who were also the attorneys of my father, or anything of
264 like import. I never told Mr. Howard that I had had a conversation with Mr. Lovely, and I had no private conversation with him during that interview. I went to Lovely & Parker's office that evening in company with Mr. Philbrick and Martin Howard. J. H. Parker was alone in the office when we got there. Mr. Lovely was not there during the evening. I did not, at that interview, say that my father was entitled to a judgment. I never saw Mr. Howard since that interview. I endeavored to find Mr. Howard the next morning, but could not, and have never seen him since. I never said to him at any time, "You think you are smart, but we will show you that you cannot do that thing." I never referred to Lovely & Parker as my attorneys to Mr. Howard, or anybody else. Mr. Howard never asked me how it was that my father came to send that claim to Lovely & Parker. The land described in the abstract, Ex. No. 5, is a portion of the same land described in the mortgage to my father, and set forth in the answer. My wife, Mary A. Palmer, was the owner of that land at the time of making that mortgage, and has ever since been. I never have had any title or interest to that land. She gave that mortgage for the purpose of becoming surety to my father for my debts. At the time of making the mortgage she was not in anywise liable for the payment of the debt for which it was given.

265 (All the foregoing evidence of Andrew Palmer, jr., is, by agreement of parties, taken under the objection by pl'ff on the ground that it is irrelevant, immaterial, and incompetent.)

Cross-examination:

At the time of Mr. Philbrick's first visit to the store parties might have been receiving and taking away packages sold before the attachments were levied. The clerks were putting the store in order, shelving goods, &c. I was in the office talking with Sheehan. Mr. Sheehan was talking with me about taking inventory when Mr. Philbrick came in. I remember nothing being said in Mr. Philbrick's presence in reference to taking inventory. I do not know that anything was said in Mr. Philbrick's presence about the attachments. The curtains were up, and I don't remember whether the doors were locked or not. I think I stated to Mr. Philbrick, at my house, that Farrington & Schmahl had sued me before the claim was due. I did not defend that case. I did not consult counsel in reference to it. The 3d time that I saw him was at the store. Sheehan was present during the whole conversation. He
266 was present at no one's invitation. Before I went to Lovely &

Parker's office to post Cargill's wheat books, I had not asked permission of Lovely & Parker. At the request of the sheriff I posted a few charges into the ledger used in my business; this was done in my store, and under the supervision of the sheriff, while I was assisting in taking the inventory; did not post those books at home at my house; never had the books out of the store. I went to the office of Lovely & Parker with Mr. Howard, the first time, at his request. The second time I went in pursuance of an appointment made by Mr. Howard, and at his request. I stated at this meeting, in reply to an assurance from Mr. Howard that he could induce all my creditors to concede to a compromise, that I thought I could induce my father to compromise a part, if not the whole of his claim. I suppose the mortgage to my father covers 80 acres of my land and 80 acres of my wife. My wife acquired title to that land since the execution of those notes to my father. In 1868 or 1869 I bought some lots in Albert Lea for a homestead, the title to which was put in my wife's name. These lots were exchanged for the 80 acres in 1871. There was a difference in the price of $200.00, and she paid that difference from wheat money raised on her land.

267 (The whole of the foregoing cross-examination was, by agreement of parties, taken under objection by deft. that it is irrelevant, incompetent, immaterial, and not proper cross-examination.)

ANDREW PALMER, JR.

Subscribed and sworn & before me on this 12nd day December, A. D. 1876.

[NOTARIAL SEAL.] GILBERT GULBRANDSON,
Notary Public.

THIMOTHY J. SHEEHAN is sworn, and testifies as follows:

I am sheriff of this county. I served two attachments against Mr. Palmer about the 8th of Nov., 1875. I know F. W. Philbrick. I first saw him, I think, in the afternoon of Nov. 8th, 1875, and also on the 9th day. It was the afternoon that I levied the attachments that I first saw him. This was at Mr. Palmer's store. At that time I think that Mr. Palmer was in the store. He was giving me the amounts and costs of the goods as I was taking inventory. The door was locked in the afternoon on the 8th. I admitted Mr. Philbrick. He came to the

268 store there twice that I recollect of. I can't say positively whether Palmer was in there the first time he came to the store or not. At the 2d time Philbrick came there I let him into the store, and he commenced conversing with Mr. Palmer. Mr. Philbrick came there and knocked, and I opened the door, and he inquired for Mr. Palmer. Mr. Palmer stepped there and stepped out, and I held the latch. They had a conversation as regards Andrew Palmer's father suing him. I think I heard all the conversation they had at that time. Mr. Philbrick asked him what his father's claim was, or how much it was. I think Palmer told him it was about $8,000.00. There was some other conversation between them. I heard him ask Palmer who his father's attorneys were, and I think also asked him if there could not be some arrangement made by which he could get his claim. My understanding of it was that he told him that Lovely & Parker were his father's attorneys, and he could go and see them about the matter, and if they would stop proceedings with the attachments he would try and settle up claims. He, Palmer, also tried to get me to go and see Lovely & Parker, and tell them if they would stop and not go any further in making costs he would try and get Billy Cargill to settle outside debts and get his

father to stop proceedings. Part of this conversation was had
269 between Palmer and me after Philbrick left. Palmer did not state to Philbrick that everything was left with his attorneys, Lovely & Parker.

(All foregoing testimony taken under objection by pl'ff, on same grounds as before.)

Cross-examined:

I am pretty certain the store was locked when Mr. Philbrick came, on the afternoon of the 8th. There were no curtains then on the doors. Palmer went to put up some papers, and I stopped him, because I wanted to see the clerks put up what packages they claimed were sold. It was two or three packages, I believe. The first time I met Philbrick was in Palmer's store. That was the time I met him that I testified to in St. Paul. The conversation I have spoken of was just outside of Palmer's store. I went to the door. I was outside the door during that conversation. I am pretty certain that I heard all that conversation. No one invited me to be present at that interview. Mr. Palmer said, "Come up to my house this evening, and I'll talk with you." I don't remember that there was any more conversation.

T. J. SHEEHAN.

Subscribed and sworn to before me on this 2nd day of Dec., 1876.
[NOTARIAL SEAL.] GILBERT GULBRANDSON,
Notary Public.

270 Case adjourned to Monday morning, December 4th, 1876, at 9 o'clock a. m.

Case called Dec. 4th, 1876, at 9 a. m.

ANDREW PALMER, Jr., recalled for the purpose of testifying to a point that was accidentally overlooked on the direct examination, and he testifies as follows:

Question. At whose request, if at anybody's, and for what reason, did you make the affidavit in the injunction suit of C. M. Henderson et als. against Andrew Palmer, sr., et als., which affidavit is in evidence in this action?

(Objected to by pl'ff on the ground that the same is immaterial, irrelevant, and incompetent.)

Answer. At the request of Mr. Parker, one of the attorneys of Andrew Palmer, sr., and for the reason that the complaint in the injunction action charged me with fraud and collusion with my father, which charge was false.

Question. How did you know what was contained in that complaint?

(Objected to on same grounds.)

Answer. It was either read to me or I was informed of its contents by Mr. Parker.

Question. Did Mr. Parker inquire of you then whether it was
271 true or false; and, if so, what was your answer?

(Objected to on same grounds.)

Answer. He did, and I informed him that it was false.

Cross-examination:

My father was not in this State, to my knowledge, at the commencement of the suit of C. M. Henderson & Co. vs. Palmer, above referred to. I knew that Mr. Parker was one of the attorneys for my father in that case, because he came to me with the papers. I first heard of the

suit when I was in Mr. Lovely & Parker's office, where I was waiting, in pursuance of the appointment with Mr. Howard. It was there, and that time, that the papers were shown to me, if at all, and it was then and there that I signed the affidavit.

(The above cross-examination is objected to by def't, on the ground that it is improper cross-examination.)

ANDREW PALMER, JR.

Subscribed and sworn to before me on this 4th day of December, A. D. 1876.

[NOTARIAL SEAL.] GILBERT GULBRANDSON,
Notary Public, Freeborn Co., Minn.

272 Circuit court of the United States.

UNITED STATES OF AMERICA,
District of Minnesota, ss:

I, H. E. Mann, clerk of said circuit court, do hereby certify and return to the honorable the Supreme Court of the United States, that the foregoing, consisting of 271 pages, numbered consecutively from 1 to 271 inclusive, is a true and complete transcript of the records, process, pleadings, orders, final decree, and all other proceedings in said cause and of the whole thereof, as appears from the original records and files of said court.

In witness whereof I have heunto set my hand and affixed the seal of said court at Saint Paul in the district of Minnesota this twenty-second day of September, in the year of our Lord one thousand eight hundred and seventy-seven, and of the Independence of the United States the one hundred and first year.

[SEAL.] H. E. MANN,
Clerk.

(Indorsed:) United States circuit court, district of Minnesota. Josias N. Rogers, assignee, &c., vs. Andrew Palmer, sr. Return to Supreme Court.

(Indorsement on cover:) No. 333. Josias N. Rogers, assignee of Andrew Palmer, jr., a bankrupt, appellant, vs. Andrew Palmer, sr. Minnesota C. C. U. S. Filed 27th October, 1877.

OFFICE SUPREME COURT U. S.
FILED
FEB 23 1880
D. W. MIDDLETON, Clerk.

IN SUPREME COURT UNITED STATES.

No. 333.

JOSIAS N. ROGERS, Assignee of ANDREW PALMER, JR., a Bankrupt,

Appellant,

vs.

ANDREW PALMER, SR.,

Respondent.

Argument for Appellant.

E. G. ROGERS,
Counsel for Appellant,
St. Paul, Minn.

Pioneer Press.

IN SUPREME COURT, UNITED STATES.

JOSIAS N. ROGERS, ASSIGNEE OF ANDREW PALMER, JR., A BANKRUPT, APPELLANT,

VS.

ANDREW PALMER, SR., RESPONDENT.

STATEMENT OF CASE.

The essential facts disclosed by the record are as follows:

April 29th, 1867, said Andrew Palmer, Jr., executed and delivered to his father, said Andrew Palmer, Sr., his three certain promissory notes, each for the sum of $2,312.30, each bearing date April 29th, 1867, and each drawing interest at the rate of seven per cent. per annum, and due in thirty, sixty and ninety days time respectively.

No payments of any considerable amount were ever made on said notes, except the interest was generally paid twice a year.

No demand of payment was ever made except by Mr. Lovely as hereinafter stated. (Transcript of record, pages 21 and 22; folios 57 and 58.)

In October, 1874, said notes were partially secured by mortgage on real estate, situated in Freeborn county, Minnesota.

October 18th, 1875, said notes were forwarded by respondent from Janesville, Wisconsin, to said Lovley, at Albert Lea, for collection and judgment, if he thought that course advisable. (Transcript of record, page 89, folio 221.)

The respondent was and is a resident and citizen of Janesville in the State of Wisconsin, and was last in Albert Lea in July, 1875. (Transcript of record, page 22, folio 58.) Lovely & Parker acted throughout the entire proceedings, as hereinafter stated, as his agents and attorneys.

Suit was instituted October 23d, 1875, on said notes, in district court, Freeborn county, by Lovely & Parker, in favor of respondent and against his son, Andrew Palmer, Jr.

Suit in favor of Farrington & Schmal to recover about $600.00 had previously been instituted by the same attorneys. (Transcript of record, pages 80 and 81, folio 188 and 189.)

November 6th, 1875, writs of attachment were issued in each of said actions at the instance of said Lovely & Parker, and at once levied upon the entire visible assets of said bankrupt.

The ground for the issuance of the writ of attachment in case of respondent against A. Palmer, Jr., being, as stated in the affidavit of of James H. Parker, one of said attorneys, "That said defendant is about to dispose of his property, with intent to delay and defraud his creditors." (Transcript of record, page 30, folio 79.)

The bankrupt, who was a retail merchant and trader, conducted and carried on his business during the pendency of the suit down to the levy of the writ of attachment in the same apparent manner as he had done before the suit was instituted, and with the full knowledge of said Lovely & Parker. (Transcript of record, page 102, folios 254 and 255. See also testimony of A. Palmer, Jr.)

It is stipulated that at the time suit was commenced and execution levied, A. Palmer, Jr., was insolvent. (Transcript of record, page 20, folio 54.)

A. Palmer, Jr., had on deposit with W. W. Cargill, of LaCrosse, Wisconsin, at time execution was levied, $2,325.00, although he kept a bank account in his own town, and had a safe in his store. (Transcript of record, page 19 and 20, folios 52 and 53; also page 17, folio 47.)

November 12th, 1875, being the last day to answer in suit of respondent against his son, A. Palmer, Jr., and the said A. Palmer, Jr., having absolutely refused to take any steps to prevent his father from obtaining a preference, although earnestly requested so to do by his creditors, the firm of C. M. Henderson & Co., large creditors of said Palmer, Jr.,

commenced an action in the said district court of Freeborn county and obtained an injunction prohibiting the clerk of said district court from entering judgment in case of Andrew Palmer, Sr., against Andrew Palmer, Jr. (Transcript of record, page 81, folios 196, 197, 198 and 199.)

A. Palmer, Jr., promptly made affidavit to be used and which was used on motion to dissolve said injunction; was present when motion was argued, and seemingly much interested in result. (Transcript of record, page 84, folios 202 and 203; also page 23 of record folio 62.)

The injunction was dissolved November 13th, 1875, and judgment entered and execution at once issued and levied.

November 22d, 1875, bankruptcy proceedings were instituted against said A. Palmer, Jr. November 30th he was adjudged a bankrupt.

December 27th, 1875, this appellant was duly appointed his assignee in bankruptcy, an injunction having issued out of the United States District Court in said bankruptcy proceedings, restraining the sale under said execution, the stipulation recited in *record* was entered into.

February 29th, 1876, this action was instituted by the appellant.

POINTS AND AUTHORITIES FOR APPELLANT.

It is conceded that before appellant can be entitled to recover, he must establish to the satisfaction of the court the following propositions:

I.

That at the time of the levy of the execution in case of respondent against A. Palmer, Jr., A. Palmer, Jr., was insolvent.

II.

That respondent had reasonable cause to believe his son, A. Palmer, Jr., to be insolvent, and knew that the seizure was made in fraud of the provisions of the bankrupt act.

III.

That being so insolvent, he, Andrew Palmer, Jr., procured his property to be seized under the execution, with intent to give his father, the respondent, a preference.

The first proposition respondent concedes to be true. (Transcript of record, page 20, folios 54 and 55.)

The respondent being a non-resident was not personally present when suit was instituted, or execution levied; but he directed that judgment be obtained, and is fairly charged with the knowledge of his agents, Lovely & Parker, who well *knew* long before the execution was levied, that Andrew Palmer, Jr., was wholly and entirely insolvent.

November 12th, 1875, being the last day to answer in suit of respondent against A. Palmer, Jr., Mr. Howard and Mr. Philbrick, agents and attorneys of eastern creditors of A. Palmer, Jr., had a conference with A. Palmer, Jr., and Mr. Parker, of Lovely & Parker, at the office of said Lovely & Parker, to consider the question of a compromise.

A. Palmer, Jr., stated at the meeting, in presence and hearing of said Parker, that his assets only equaled fifty-five cents on the dollar of his indebtedness. (Transcript of record, page 102; folios 256 and 257.)

The most casual reading of the testimony shows conclusively that Lovely & Parker well knew before the levy of the execution, that Andrew Palmer, Jr., was wholly and entirely insolvent.

The knowledge of the agents was the knowledge of the principal.

Hoover, assignee vs. Wise et al., 1 Otto, 310 and cases cited.

There can be no doubt that Andrew Palmer, Jr., intended to gve his father a preference, or, that the respondent, through his agents and attorneys, well knew that the levy of the execution would operate as a fraud upon the bankrupt act.

The execution was for $8,433.00, and was levied upon the entire assets and property of said Andrew Palmer, Jr.

All parties must be held to have intended the natural consequences of their own acts.

Clarion Bank vs. Jones, 21 Wallace, 337 and 338, and cases cited.

If in addition it can be demonstrated to the satisfaction of the court that this result was facilitated by any affirmative action on the part of A. Palmer, Jr., no matter how slight, the appellant must recover.

In Wilson vs. City Bank, 17, Wallace 487, the court say: "Evidence "of an affirmative character of the existence of a desire to prefer one "creditor, or of acts done with a view to secure such preference might "be sufficient to invalidate the whole transaction."

Again, in Little, assignee, vs. Alexander, 21 Wallace, 501, the court say: "The question in the case on which the decision of it must turn "is, whether the bankrupt intentionally aided in the procurement of "this judgment in order to give his son a preference over the other "creditors."

Mr. Philbrick testifies to having had the following conversation with A. Palmer, Jr., after the attachment and before the judgment: "I "called him over and asked him what he was going to do about our "claim. He said he had nothing to say about it, as everything was left "with his attorneys, Lovely & Parker." He said, "I might go and "talk with them." (Transcript of record, page 15, folios 41 and 42.

Mr. Howard also testifies as follows: "He, (A. Palmer, Jr.) said he "did not want to talk with me about the case any further, but would "go with me to his attorneys, who were also the attorneys of his father. "We went and found one of the firm of Lovely & Parker." (Transcript of record, page 24, folio 64.)

Again, Howard says: "In our conversation, Mr. A. Palmer, Jr., fre-"quently referred to Lovely & Parker as his attorneys, and as his "father's attorneys." (Transcript of record, page 25, folio 68.)

Philbrick and Howard, each represented overdue claims against A. Palmer, Jr., and were entitled to know the exact facts.

A. Palmer, Jr., himself admits that Lovely had generally been his attorney. (Transcript of record, page 21, folio 57,)

A. Palmer, Jr., was in constant communication with Lovely & Parker, after the attachment and before the judgment in the case of respondent against him, and occupied the office of Lovely & Parker as his office and rendezvous between the time of the attachment and execution. (Transcript of record, page 23, folios 61 and 62; also page 105, folio 263.

This, too, after Parker had made affidavit in the attachment proceedings "that he, (A. Palmer, Jr.) was about to dispose of his property "with intent to delay and defraud his creditors." (Transcript of record, page 30, folio 79.

The court will also bear in mind that the notes sued on were in large

part secured by mortgage given in 1874. (Transcript of record, page 9, folios 23 and 24.)

Also, that respondent never in any way or manner made demand for payment of notes, until Lovely made demand a day or so before suit was brought. (Transcript of record, page 22, folio 58.)

Suddenly, and on the 18th day of October, 1875, respondent, the father of the bankrupt, forwards the notes to Mr. Lovely, who had uniformly been the attorney of the bankrupt, for immediate judgment, and as respondent would have you believe, without any previous correspondence or consultation with his son, the bankrupt.

It is also a singular circumstance that the testimony of the respondent was not taken in this cause.

November 12th, 1875, the agents of the creditors, having in vain solicited and entreated the bankrupt to take some action to prevent the respondent from obtaining a judgment against him which would inevitably exhaust all his assets, finally instituted an action in the district court of Freeborn county, (Transcript of record, pages 81, 82 and 83,) and obtained an injunction enjoining the clerk of said district court from entering the judgment in favor of respondent and against the bankrupt.

The bankrupt, promptly, on the 13th day of November, made an affidavit in said cause in support of a motion to dissolve said injunction. (Transcript of record, page 84, folio 203.)

The court has well said, in Wilson against City Bank, 17 Wallace, 487: "These cases must rest on their own circumstances." Certainly it must be conceded that the bankrupt did by affirmative acts on his part, assist in procuring his property to be taken on said legal process.

The decree of the circuit court should be reversed.

E. G. ROGERS,
Counsel for Appellant.

St. Paul, Minn.

OFFICE SUPREME COURT U. S.
FILED
OCT 25 1880
JAMES H. McKENNEY, Clerk.

SUPREME COURT OF THE UNITED STATES.

No. 333.

JOSIAS N. ROGERS, ASSIGNEE OF ANDREW PALMER, JR.,
A BANKRUPT,
Appellant,

vs.

ANDREW PALMER, SR.

Argument for Respondent.

C. K. DAVIS,
Counsel for Respondent.

Pioneer Press.

The Supreme Court of the United States.

JOSIAS N. ROGERS, Assignee of ANDREW PALMER, JR., a Bankrupt, Appellant,

vs

ANDREW PALMER, SR., Respondent.

STATEMENT.

The facts disclosed by the record, so far as the respondent in this action is concerned, are as follows:

1st. On the 29th day of April, 1867, Andrew Palmer, sr., sold and conveyed to Andrew Palmer, jr., his interest in the assets of the firm of Miller & Palmer, a firm doing business at Albert Lea, in the county of Freeborn, Minnesota, for the sum of $6,936.90. (Transcript of Record, page 8, folios 21 and 22.)

2d. To secure the payment thereof, the said Andrew Palmer, jr., executed and delivered to the said respondent three judgment notes bearing date on said April 29th, 1867, each for the sum of $2,312.30, and payable in thirty, sixty and ninety days, respectively, from the date thereof, with interest at seven per cent. per annum.

3d. Prior to the commencement of the action upon these notes by the respondent against Andrew Palmer, jr., to-wit,

on the 23d day of October, 1875, there had been paid upon these notes the sums following, viz., the note due in thirty days, $928.79; the note due in sixty days, $918.78; and the note due in ninety days, $813.76. And the balance of said notes was long past due and unpaid.

4th. In the fall of 1874, these notes being unpaid, the said Andrew Palmer, jr., (as partial security for the payment of said notes,) executed to the respondent a mortgage upon the undivided ⅔ of lot 16, block 22, in the village of Albert Lea, and also procured to be executed to the said respondent as further security for said notes, a mortgage by his wife on her separate property. That the value of all said mortgaged property was much less than the respondent's debt against Andrew Palmer, jr. (Transcript of Record, page 9, folios 22 and 23.)

Which mortgages were duly recorded October 29, 1874, in the office of the Register of Deeds of the county of Freeborn. (Transcript of Record, page 91.)

5th. On the 18th of October, 1875, the respondent placed the notes in question in the hands of John A. Lovely, Esq., an attorney residing in Albert Lea, with instructions that if in his opinion that course would be advisable, to proceed at once to obtain judgment upon the notes, and to take such further proceedings as he might deem advisable to secure the ultimate payment of the amount due. (Transcript of Record, page 89, folio 221.)

6th. On the 23d of October, 1875, the said Lovely commenced action upon said notes against Andrew Palmer, jr. The summons was served by the sheriff of the county on that day, and was, on the same day, with the sheriff's return of service indorsed thereon, filed in the office of the Clerk of the District Court of the county. (Transcript of Record, page 35, folios 90 and 91.)

7th. On the 6th day of November, and before the time for answering in said action had expired, the said Lovely and his partner, James H. Parker, upon their own motion and without

instructions from respondent, procured to be issued from said court a writ of attachment upon the property of said A. Palmer, jr. Their reasons for so doing are fully set forth in the testimony of Mr. Parker. (Transcript of Record, page 102, folios 255 and 256.)

8th. On the 12th day of November, C. M. Henderson & Co., creditors of Andrew Palmer, jr., by their attorneys, commenced an action in the District Court of said county against the respondents, Andrew Palmer, sr., Andrew Palmer, jr., and Asa W. White, clerk of said court, to restrain and enjoin the entry of judgment in the action then pending in favor of respondent against the said Andrew Palmer, jr., alleging that the claim of the said respondent against the said Andrew Palmer, jr., was false and fraudulent, and was made for the purpose of cheating and defrauding the creditors of the said Andrew Palmer, jr., and that the respondent and the said Andrew Palmer, jr., had conspired and colluded together to have the same sued and the property and assets of Andrew Palmer, jr., attached therein, judgment entered therein, the assets of said Andrew Palmer, jr., sold thereon, in fraud of the rights of the creditors of the said A. Palmer, Jr., (Transcript of Record, page 81, folios 196, 197, 198 and 199.) And a preliminary injunction as prayed for in said action was issued, and the entry of judgment in the suit then pending between the respondent and A. Palmer, jr., was enjoined and restrained. (Transcript of Record, page 85, folios 205 and 206.)

9th. On the 13th of November, the attorneys for respondent moved to dissolve and set aside the writ of injunction, and procured from the defendant, Andrew Palmer, jr., an affidavit denying the allegations of fraud and collusion contained in the complaint in the action commenced by the said C. M. Henderson & Co., and also stating that the claim of the said respondent against said affiant, mentioned in said complaint, was just and true, and wholly unpaid, (Trans. of Record, page 84, fol. 203 and 204.) Upon the hearing of this motion, the prelimin-

ary writ of injunction was set aside and dissolved, (Trans. Record, page 86, fol. 207.) And on the same day judgment in favor of the respondent, and against the said Andrew Palmer, jr., was rendered for the sum of $8,433.00, and execution issued thereon, (Trans. Record, page 32, fol. 163.) Under and by virtue of which the sheriff seized and advertised for sale the property of the said Andrew Palmer, jr.

10th. Subsequently, and on the 22d day of November, 1875, a petition for adjudication in bankruptcy against the said A. Palmer, jr., was filed in the U. S. District Court, District of Minnesota. And on the 30th day of November, 1875, he was, upon said petition, duly declared and adjudged a bankrupt. And thereafter, the plaintiff herein was duly appointed assignee in bankruptcy of his estate.

An injunction was issued out of the said U. S. District Court, District of Minnesota, restraining and enjoining the sheriff of Freeborn county from selling or disposing of any of the property levied upon by him under and by virtue of the execution issued out of the District Court of said county, upon the judgment in favor of the respondent and against the said A. Palmer, jr.

11th. Subsequent to the issuing of said injunction, a stipulation was entered into by the attorneys of the respondent and of the plaintiff herein, wherein and whereby it was stipulated and agreed that the property so levied upon by the sheriff of Freeborn county should be turned over to the plaintiff herein, as assignee of the said A. Palmer, jr., and by him sold and disposed of, and the proceeds thereof—after deducting the costs and expenses of said sheriff, the costs and expenses of such sale, and the amount due upon an execution levied upon said goods in favor of Farrington & Schmall, and against said A. Palmer, jr., which had been levied upon said property by said sheriff prior to the levy of the execution in favor of the respondent—should be paid into the registry of said United States

District Court, to abide the result of this suit. (Transcript of Record, page 4, folios 9, 10, 11 and 12.)

12th. It further appears from the record in this case that Lovely & Parker, the attorneys for the respondent herein, in the suit brought by him in the District Court of Freeborn county, were also attorneys for Farrington & Schmall, the plaintiffs in the suit in which judgment was entered, attachment issued and execution levied on the property of the said Andrew Palmer, jr., prior to the issuing of the attachment and the levying of the execution in favor of the respondent in this action, and it will be observed that no objection was made to the payment of the Farrington & Schmall judgment.

POINTS FOR RESPONDENT.

The only act by which it can be pretended that Andrew Palmer, jr., the judgment debtor, procured his property to be seized on execution, with a view to give a preference to the judgment creditor, is his affidavit found on p. 84, fol. 203, Record. It will be observed that this affidavit was made in a suit other than that in which the judgment was obtained; a suit brought by his creditors against him and other parties, in which he was charged with acts of gross fraud, and in which relief, by way of judgment, was demanded against him. The issues thus forced upon him by the judgment creditors who afterwards threw him into bankruptcy, he had a right to controvert. He did not procure them to bring their suit, and judgment creditors cannot advance, as a procurement, by him any defensive allegations which they forced him to make by bringing a suit against him.

The evidence is plenary that the suit brought against him by Andrew Palmer, sr., was entirely adversary in its character. The debt on which it was founded is not assailed, and the evidence shows that there was not the least concert of action

between the parties. On the contrary, the testimony of Mr. Lovely shows (fol. 232 *et seq.*) that Palmer, jr., entreated that gentleman not to bring the suit, and was much opposed to its institution.

The Circuit Court was right in concluding, as a matter of fact that, the procurement prohibited by the bankrupt act is not inferable from the proof.

"These cases must rest upon their own circumstances." 17 Wall., 487. The issue after all is one of fact, and the testimony does not raise an irrebuttable *præsumptio juris imperativi.* There is no proof whatever that the affidavit of Palmer, jr., was made in "contemplation of bankruptcy or insolvency." Under the amendment to the bankrupt act of June 22, 1874, (~~secs. 5021, 5128, R. S.,~~) the procuring property to be seized on legal process with the intent to give a preference, is innocent, unless it is done in contemplation of bankruptcy or insolvency. No such contemplation is disclosed by this record. The creditors went into the State court to assert their rights against the estate of Palmer, jr., upon general equitable and legal grounds, (fol. 196 *et seq.*) These creditors might have defeated the attachments of which they complain in their pleading in that action by instituting proceedings in bankruptcy. They have furnished a rule for interpreting the act of Palmer, jr., which is now asserted to have been done in contravention of the bankrupt act.

The appellant's case fails in other vital particulars. The statute in force at the dates under consideration makes void transactions of this character only in cases where the person to be benefited by the seizure on execution—

1st. Has reasonable cause to believe that the debtor is insolvent, and

2d. Knows that such seizure is made in fraud of the provisions of this act. (~~Sec. 5128, R. S.~~)

The judgment creditor in this case is the father of the debtor. The validity of the debt is unquestioued. There is no proof of

series of Patents, ten in number, issued to secure this invention to Tice, demonstrate this conclusion.

The public records of the Patent Office show the following Patents issued to I. P. Tice on spirit meters:

63,335, March 26, 1867.
63,336, " "
72,701, December 24, 1867.
67,611, August 6, "
63,064, April 5, "
72,699, December 24, "
72,700, " "
63,334, March 26, "
72,698, December 24, "
72,702, " "

Whether the instruments shipped were made in accordance with either or all of these complicated patents, nothing but inspection could demonstrate. Certainly, the fair interpretation of the orders and contracts exhibited, implies that the meters in question should be constructed with all the improvements the patentee found essential to secure by Letters Patent.

Printed copies of these patents are found in the Library of Congress, and it is respectfully submitted, are properly referred to herein in accordance with Secs. 490, 892, Rev. St.

Ten patents were taken out, improvement on improvement, and the Commissioner informs the public: "The meter adopted being the invention of Mr. Tice, and secured to him by Letters Patent, can only be made by him or under his license." (Rec. pp. 6, 10, &c.)

The validity of these patents has never been tested. After which patent the meters were made, the Commissioner makes no statement. This should have been done, (Sec. 4,900, R. S.)

That careful examination, tests, attachment, &c., were eminently required by the character of the devices, is manifest, and the pleas and averments of appellants in reference thereto

are in no wise technical. To describe the instruments in the language of the published records of the Patent Office, would require more space than is occupied by all the records and briefs filed both in this Court and the Court below. The device is intricate, consisting of a combination of delicate parts which undertook to determine automatically the cubic admeasurement of a liquid, to ascertain its temperature, give its specific gravity, demonstrate its proof or strength, register all the conditions of an acrid viscid pungent product, passing at varied volumes, at diverse velocities from the tail of a spirit worm, at boiling heat through sensitive complicated mechanical contrivances, the slightest displacement of which would cause the citizen to be not only mulct for an enormous tax, but upon evidence it supplied would cause him to be incarcerated in the penitentiary. An instrument that was designed to perform with knife-edge balances, trunions, liable to corrode, wheels, pinions, and a multitude of metalic levers, troughs, and mechanical devices, what an army of storekeepers, collectors, assessors, &c., could not be trusted to do, at least ought to have been subjected to a little cursory examination, even had no contract been made, that thorough inspection and tests should be made.

3. "*That it was the duty and obligation of the distiller to furnish and attach at his own expense the meter prescribed, and to furnish all the pipes, material, and labor necessary to its attachment. To him it was an* EXPENSE *and a* TAX, *imposed by statute as a condition to his right to continue his business.*"

Record p. 26.

These appellants discharged that duty and fulfilled that obligation, but they did not get from the United States that for which they paid their money. They had paid their license tax, and therefore had a right to carry on their business as distillers. The new device which the Commissioner of Internal Revenue prescribed for use in the distilleries was in no sense a *tax*. It lacked all the elements of a tax.

It would be a novel way of levying and collecting a tax from the citizen by taking from him an indefinite and uncertain sum, and remitting it direct to a Government contractor or anywhere except to the United States Treasury, for a device to be delivered *in futuro*, and which, when received, even if in good order, could, at the whim and caprice of a Government officer, be used or set aside. Such a tax, if imposed by statute, would be utterly void, being in conflict with the true intent and meaning of the Constitution.

Chase J., in the Hylton Case, 3 Dall., said:

"The great object of the Constitution was to give Congress power to levy taxes adequate to the exigencies of the Government, but they were to observe two rules in imposing them, namely: the rule of *uniformity* when they laid *duties*, *imposts*, or *excises*, &c."

Loughborough *vs.* Blake, 5 Wheat., and numerous decisions, confirm this view.

If the purchase of a meter could be made obligatory on the citizen by Congress, such an obligation could in no sense be construed as a TAX, but, if a TAX, it could not delegate the power to the Commissioner to fix the *rate* of such TAX or any tax, certainly not a variable rate.

In Record p. 2, the price ranges from $200 to $1,050; appellants paid $2,000 and $2,150. Can such payments be classed as uniform taxation?

Section VIII of the Constitution, when first introduced into the Convention, was in these words: "Congress shall have the power to lay and collect taxes, duties, imposts, and excises." Had this clause remained unrestricted, the power would have been unlimited, but it was then amended by adding after the ward *excises* "to pay debts, and provide for the common defense and welfare of the United States." It was amended again by adding to this last-mentioned amendment these words: "but all duties, imposts, and excises shall be *uniform* through the United States."

These restrictive words cannot be overlooked; they impress the Constitution with a character of vital force, lodging a determinate limited power in *Congress* to be indifferently enforced. It cannot delegate such a high attribute to an executive officer, giving him power to fix a rate, change it, and repeal it, at will.

So, under the [erroneous] assumption that the appellants' money deposit was a tax—

a] It lacks the uniformity the Constitution requires.

b] It was a vague, indefinite imposition of excise.

c] It was fixed and determined, imposed and collected, suspended, annulled, amended, and changed by an inferior officer, with whom no such discretion can be lawfully reposed.

Taxation exacts money from individuals as *their share* of a justly imposed and apportioned general public burden, and the equivalent is presumptively received in the benefits conferred by the Government." Booth *vs.* Town of Woodbury, 32 Conn., 130.

But, if the Court of Claims were correct in assuming that the money extorted for these meters was in any sense a *tax*, then it results that it was *public money*, and ought to have been paid into the Treasury as fast as collected without dimunition.

Revised Statutes, Sections 3,210, 3,212.

In Soules' Case, 10 Otto, pp. 8, 11, decided at the last Term of this Court, it was held that *gaugers' fees*, which the distillers were required to pay to the collector, was public money for which both the collector and his sureties were liable. In coming to this conclusion, the Court said:

"Four hundred and ninety-four dollars and thirty-eight cents, money collected from that source, in excess of what the collector paid out, remained in his hands, and was charged in the accounts as settled by the accounting officers of the Treas-

ury. Due exception was taken by the sureties to the ruling of the Court, that they were liable for that charge. No objection was made to the charge as against the collector, but the objection was that the sureties were not liable, *because the money was received under the subsequent act.*"

"Viewed in that light, it must be assumed that the charge was a proper one as against the collector, and inasmuch as it was money collected by law of the owner or producer of the articles to be gauged and inspected, it was clearly public money in his hands, to which he had no legal right. By the terms of the bond in suit, the sureties are to become responsible, if their principal does not justly and faithfully account for and pay over to the United States all public moneys which may come into his hands or possession. Beyond doubt the amount went into his hands and possession as public money, and in the judgment of the Court here, the ruling of the Court below, that the sureties are liable for it, is correct."

Another result of considering this extortion as a TAX, and as a consequence, public money would have been the necessity of having the money paid to Tice for his useless meters, withdrawn from the Treasury only by the means of an account stated with him, as they were from time to time furnished under his contracts, and this would have devolved upon him the necessity of proving that he had furnished meters in strict conformity with the contract, which were useful and valuable, when subjected to the inspections and tests, for which the contract made explicit provision.

Again, if the Court below seriously believed that the deposits, which are the foundation of the present suit, were *taxes*, it should have dismissed the petition for want of jurisdiction.

Let us suppose that Congress should provide that the Commissioner of Internal Revenue should collect annually, in advance from each distiller, the sum of eighteen hundred dollars, to be paid to some person whom the Commissioner shall employ as a watchman or *detective* at each distillery, and no such

person should be designated or employed for that purpose, and the Government should retain the money of the distiller paid for that express purpose, or pay it over through their collector without passing through the scrutiny of any accounting officer to a number of men who never did an hour's duty at any distillery, would it be doubted that money so paid to the Government could be recovered back from the United States?

The *Court of Claims* might doubt it, but it would be difficult to find any other tribunal which would either deny or doubt the right of the citizen to maintain his action for money so paid to and retained, or misapplied by the Government.

4. "*The collector was to receive applications for meters, take a certificate of deposit in the name of Mr. Tice, for the price at which the manufacturer had agreed to furnish them, to forward the applications to the Commissioner, and upon the receipt of the meter at the distillery to forward the certificate of deposit to Mr. Tice. That was all the Commissioner undertook to do for the distiller; and was the only contract, express or implied, that was made with him by the defendants. And this was wholly gratuitous on the part of the Commissioner, and for the sole benefit of the distillers, to protect them from extortion by the manufacturer, who had a patent on his meter.* BUT THIS DID NOT PRECLUDE DISTILLERS FROM PURCHASING FROM THE MANUFACTURER DIRECTLY AT ANY PRICE, OR FROM PURCHASING FROM OTHER PARTIES AT SECOND-HAND."

Record p. 26.

It is difficult to deal with assumptions so entirely at variance with the record.

The distiller could not, under the regulations prescribed, deal with the manufacturer. He could apply for a meter only through the collector. "You will apply to the collector of your District for a meter, using for that purpose only FORM 7." "You must deposit the price of the meter before it is ordered."

The price has already been agreed upon, so that you must pay that price, and cannot have any dealings or negotiations with the manufacturer upon that subject. The patentee and manufacturer is making them exclusively for the United States, under a contract made with it. The United States has agreed to buy, through its Collectors of Internal Revenue *all* that may be manufactured, not exceeding five hundred. The money to be paid for them must be paid to the Government, and pass to Mr. Tice, only through its hands.

Such were the declarations of the Government to the distiller, when the order adopting the Tice meter was promulgated. In the face of all this appearing so often and so conspicuously in the record, we are told with a gravity that must seem something like a *jest*, that the distiller could deal directly with the manufacturer, and, if he could not do that, he could "buy at second-hand" an instrument that was never manufactured except for the United States, and had neither market or other value, the very moment the Government discontinued its use.

These assumptions are of equal dignity and force, with the other conclusion stated in the above-quoted paragraph, that the Government, having prescribed a meter, which the appellants must buy, having received their application and money therefor, were under neither an express nor an implied obligation to furnish him any meter at all. Let it be supposed that an *individual* had entrusted the *agent* of another individual with an order for a specific instrument or machine, to be used only in a particular way, and for a definite purpose, and had accepted the agreed price for that specific instrument, and it were known that the agent to whom the order and money were entrusted had agreed to purchase all that could be manufactured, and should see that they were manufactured in accordance with certain plans, and to be subjected to certain tests and inspections; and that it was only such instruments or machines as had been subjected to those inspections and

tests that were to be accepted and furnished; and that the machines furnished under such order had not been subjected to such inspections and tests; and turned out to be useless and worthless for the purpose for which they were ordered, would it be seriously contended that in such a case there was not both an express and implied contract to furnish the very instrument ordered, after subjecting it to the required inspections and tests; and that the instrument ordered should perform the functions for which it was known to be ordered. In such a case, the buyer does not undertake to purchase or pay for an unknown—but for a specific thing. The rule of *caveat emptor* never applies to such a purchase, and if the instrument or machine furnished be of no value for the purpose for which it was contracted to be furnished, then there is such a breach of the contract as entitles the buyer to damages; and the measure of damages in such a case is the difference between the price paid for the machine, and the value of the instrument or machine actually furnished.

"AND THIS WAS WHOLLY GRATUITOUS ON THE PART OF THE COMMISSIONER, AND FOR THE SOLE BENEFIT OF THE DISTILLERS, TO PROTECT THEM FROM EXTORTION BY THE MANUFACTURER WHO HAD A PATENT."

Record p. 26.

What sort of protection from extortion did this gratuity extend?

A pertinent answer can be found in the dissenting opinion of Judge Peck:

"In this case, I think, the rules and regulations established by the appropriate department, in relation to distillers and the Tice meter, were purposely so expressed as to lead the distillers to suppose that they were to be, and should be, protected by the United States in the expenditure of their money for the meters, against all defects in the meters, and against any imposition of the constructor, or of the officers acting for the

United States. The business of distilling was prohibited, the capital employed in that business was lost and useless to the owner, unless he should first purchase a Tice meter. He was, in fact, under "duress" of the strongest character, which did not extend to life and limb, to deposit his money for the payment of the meter, and the Government promised that if he should do so, they would undertake to protect him, and take care that the instrument which it—not he—demanded, should be of benefit and useful to both, and until such instrument, to be previously examined and inspected by the defendants, was furnished and tested, they agreed to keep his money for him, or, in other words, not to pay it over. The meter could not be attached to the distillery, except through or by the agents of the United States. The claimant could not help or protect himself in the least. He was not permitted to participate in any way in the purchase of the meter, or to judge of its quality or fitness, or adaptation to the use for which it was designed; in plain language, it was a command to him, which he was powerless to resist It was a modified change from the language of the highwayman, "Your money or your life;" in this case, it was your money for your meter, or a waste of your capital, and an abandonment of your business and its pursuits. If the business was against public policy or good morals, it should have been forbidden, but not tolerated or perhaps encouraged, provided it should be prosecuted under the forms of law, and the protection and shield of a Tice meter."

5. *The Court of Claims also declares that, although these meters were never inspected, tested, attached, to the distilleries, or used, that there was no injury to the claimants, but that they were benefitted, and the loss, if any, fell on the United States.*

Record p. 27.

The appellants had sustained all the loss to which they could be subjected in paying for the meters, the cost of their transportation, and the expense of their attachment. They could incur no other or further loss. It is difficult to see what loss

the United States could sustain by the failure to use an instrument that was demonstrated to be useless and worthless. The Court of Claims, in its zeal to misrepresent the case of the appellants, constantly fall into the error of assuming that their case is one that results from the neglect or failure of a public agent to discharge a given duty. That is not, and has never been their contention. It is simply and only this: that the United States took and received the appellants' application and money for a meter which it undertook to furnish, and which was to be constructed after a specific and known pattern, for a particular purpose, to obtain certain and definite results, to be subjected to certain inspections and tests, in order to determine its utility; and it has furnished no meter that has been subjected to those inspections and tests, or that is in any respect useful for the purposes for which it was known to be ordered, and for which it was agreed to be furnished and used.

6. "*The claimants did not pay the money now sought to be recovered, in consideration that the public officers would do their duty to the defendants, in the particulars named, and the defendants never contracted with them, that those officers should perform their duty, and so the failure to do the acts complained of does not constitute a failure of consideration entitling the claimants to recover back the money paid.*"

Record p. 27.

The petition does not aver that the case of the appellants is founded upon the neglect to perform legal or official duties by the officers of the Internal Revenue. The Court of Claims knew what the demand was, without assuming that it had its foundation only upon official direliction. All breaches of contract involve an omission to do that which is legally required, but they do not necessarily involve either moral or official turpitude. It may be that the pleadings here are obscure and uncertain, but that is not material, for the case made is sufficiently clear. It is the case of a contract to furnish a specific instrument or machine, for a price paid in advance, upon an express written order, which the United States undertook

to have executed, but has failed to do, to the loss and damage to the appellants of the amount they have paid for the meters they ordered, but did not get.

There was no implied contract that the money deposited for the meters was paid to the Collector upon an undertaking or agreement that the United States would supply through the Collector merchantable and perfect meters for use in and about the distillery premises, for the purposes set forth in the laws and regulations, and of equal value to the amount deposited.

The money was paid that the manufacturer should furnish the meters required for the claimants' distilleries by the laws and regulations, in order that they might be permitted to carry on their business.

The defendants' undertook no more than to have their officers receive the application for the meters, with a certificate of deposit in the name of Mr. Tice, the manufacturer, for the price, to transmit the application at once to the manufacturer, and to forward to him the certificate of deposit as soon as the meters were delivered at the distillery.

Record p. 28.

The persistence with which the Court of Claims always misstates the real character of the transaction, which related to the supplying of these meters, is most remarkable The *implied contract* upon which the appellants rely, is that which the law always creates when a manufaturer undertakes to manufacture and supply a specific machine, to be used in a particular way, and for a special purpose. That is the *contract*, and it exists, even if the Court of Claims do "*not find any* such contract." The appellants had no dealings with the manufacturer. He never manufactured a single machine under a contract with *them*. He manufactured the meters for the United States under a contract with them, and to the obligations of that contract the appellants were entire strangers.

They were unknown to the manufacturer, and all their dealings in regard to these meters were with the United States and its agents. The proposition for which the Court of Claims so earnestly contends, is that the appellants became *contractors* with the manufacturer, without their knowledge or consent. The manufacturer was never either their agent or their contractor; and it is equally certain that the appellants did not request the United States to preclude them from any dealings or negotiations with the manufacturer. These meters were manufactured *for the United States*, under a contract which this Court has declared to be valid and binding. To that contract the appellants were always strangers, and under it they acquired no rights against the manufacturer. And yet the Court of Claims declare that all the responsibility that the United States assumed was to receive the appellants' money, and pay it over to the manufacturer, *and if no meter was ever furnished*, the United States could not in any way be held responsible. It is respectfully submitted that such a proposition is neither sustained by good law nor good morals.

But suppose that the only duty of the Government was, as the Court of Claims say, merely to receive the money from the distiller, and to pay it over to the manufacturer, certainly it was not to be paid over without any consideration, and if the very questionable condition of being a stakeholder is ALL the Government undertook to assume, then it was in duty bound to see that its contractor had done his duty before handing him the money, for "if put in the position of a stakeholder, he is bound to keep the deposit till the conditions are fulfilled upon which it is made."

Dunlap's Paleys Agency, Part III, 391.

A stakeholder must not part with the deposit until *all* the conditions of deposit are fulfilled.

Chitty on Contracts, 689.

Again the Court say:

"**There is another fatal defect in the claimants' case. They**

received the meters in 1868 and 1869, and have never returned them, or offered to return them. It is one of the most familiar elementary principles of law that the purchaser of personal chattels who undertakes to rescind the purchase altogether, and seeks to recover back the whole consideration paid, must return, or offer to return, the articles received by him. He cannot both keep the chattels and have his money refunded."

We have already shown by the authorities cited for that purpose, that where the action is for the breach of warranty in the sale of an article, either *express* or *implied*, that it is not necessary, in order to entitle the plaintiff to recover, that he should return or offer to return the defective article. The measure of damages in such a case always is the difference between the price paid and the actual value of the article, measured by the market value, and if it is an article that has no market value, then its value is to be determined with reference to the value for the specific purpose for which it was manufactured. It is clear that these meters never had a *market* value; and the findings of fact, which are a part of this record, render the fact too clear for argument, that they were absolutely useless and worthless for that purpose for which they were made. If they had any value at all, the burden of proving it, under the issues in this case, was upon the United States. The appellants asserted that these meters were useless for the purpose it was declared they would serve when they were ordered from the United States, and, in support of that fact, they relied upon the official declarations of the Commissioner of Internal Revenue, [Record pp. 13, 15, 16.] These declarations were sufficient to make out the breach of warranty upon which the appellants relied. If these meters had any value, it was incumbent on the United States to prove that fact, and thus reduce the damage to the extent of the *actual value* of these meters. Besides, there never was such a delivery to appellants as could be construed into a perfect sale to them. No proprietary rights of property in the meters were at any time enjoyed by them.

Being no perfect delivery, it follows there could be no perfect sale.

If anything remains to be done by the seller of the chattels, such as ascertainment, identification, or completion, the property in the goods does not pass until that thing is done; and there is yet no completed sale.

If there be a bargain for the sale of specific goods, but there is something material which the seller is to do to them, and they are casually burnt or stolen, the loss is the sellers, because the property had not yet passed to the buyer.

Parsons Merc. Law, Ch. IV, p. 47, and Notes.

The property cannot pass until first it is completed, and wholly finished, so as to be in fact and reality the thing purported to be sold. Ibid.

Especially is it impossible for property not manufactured to have changed title. This can only be done when the chattel is in a finished state, and has been specifically appropriated by the person giving the order, and approved, and accepted by him.

Ibid 49, and cited case of—
Moody *vs.* Brown, 34 Maine, 107.
Also—
Bateman on Com. Law, Sec. 192.
Tudors Merc. Cases, p. 611, &c.

But it is useless to discuss this point any further, as it has been elaborately passed upon in the opinion of Mr. Justice Strong, in the Elgee Cotton Cases, (22 Wall., 181,) in which this Court reversed the decision of the Court of Claims on precisely the same question.

Moreover, appellants never had any real or constructive possession or control of the instruments that enabled them to assert any directory or proprietary rights therein for another reason; a continuous contract existed between the Government and its contractor, that imperfect instruments should

be made good or others substituted; at any time the Government could have compelled specific performance of this clause of their contract; this covenant existed *until the meters were all declared to be worthless, and the system valueless.*

Even if appellants had actual possession, all that they could have done would have been to petition the Government to see that *its contract was fulfilled;* they could not have returned the meters, were they good or bad, as long as the regulations were in force, *and while the Government had the right to call for perfected instruments;* this the Government did not do, and the Court of Claims say that for this waiver or silence on part of the United States, appellants are guilty of default and *laches.*

This argument may be very appropriately closed with the following language, in the dissenting opinion of Judge Peck, in the decision of this case in the Court of Claims. It is exceedingly appropriate to that proposition, with which the opinion of the Court is concluded; he says:

"To say that the condemned meters were left at the disposal of the claimants who might sell them, and so get an equivalent for their money, is to feed them with stones instead of bread; is to offer them a taunt rather than a reason; tendering them a sarcasm in lieu of dollars, compelling them to take as a compensation for the protection offered them useless and condemned instruments, which are without value, save what they may bring as wasted and useless material.

All the transactions between the Government and its citizens should have not only the appearance of fairness, but should be marked by the reality of it; all semblance of speculation or cunning should be avoided and condemned. An attempt to shirk responsibility, if it fairly attaches to the Government, is not to be commended; honesty, as a policy merely, is more important in the conduct of public than of private affairs, and should always be regarded, and is best enforced by the example of shining marks. The citizens

should not be taught by the highest power in the land, when he deals with it, that he is to encounter artifice and deception, and is to overcome these, if at all, by a resort to the same degrading expedients. An unfair government begets unfairness in the citizen, an immoral contagion is spread, until both, suffering from the taint, travel on the downward road, forgetting that "corruption wins not more that honesty," but ruins all. Dollars, when placed in the scale against integrity and fair dealing, are certain to weaken the confidence of the people in the good faith of their Government, and they will be willing to see it destroyed. An offense against good morals can never be outweighed by pecuniary gains.

I say, without feeling any compunction for the utterance, that I do not discover in this matter between the claimants and defendants anything in the likeness of paternal or benevolent or even just treatment of the citizen by the Government, since it refuses to return the money of these claimants which they were compelled to trust to its keeping, which it has misappropriated, and which is now lost to them."

The language of this dissenting opinion is such as to commend itself to the highest consideration of justice. It states, too, with remarkable force and clearness, the legal principles upon and by which the rights of the appellants depend, and that principle is that the Government may not rightfully take the money of the citizen without returning *some* equivalent therefor.

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